

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROWENA WAGNER,
Plaintiff

v.

Case No. 04-264 Erie

CRAWFORD CENTRAL SCHOOL DISTRICT;
CRAWFORD CENTRAL SCHOOL BOARD;
MICHAEL E. DOLECKI, SUPERINTENDENT;
CHARLES E. HELLER, III, ASSISTANT
SUPERINTENDENT,
Defendants

and

THE CRAWFORD CENTRAL EDUCATION
ASSOCIATION,
Defendant

Deposition of ROWENA WAGNER, taken before
and by Sondra A. Black, Notary Public in and for the
Commonwealth of Pennsylvania, on Monday, October 31,
2005, commencing at 9:41 a.m., at the offices of
Crawford Central School District, 11280 Mercer Pike,
Meadville, Pennsylvania 16335.

Reported by Sondra A. Black
Ferguson & Holdnack Reporting, Inc.

A P P E A R A N C E S

For the Plaintiff:

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For Crawford Central School District; Crawford Central School
Board; Michael E. Dolecki, Superintendent; Charles E. Heller,
III, Assistant Superintendent:

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ROWENA WAGNER

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1 R O W E N A W A G N E R, first having
2 been duly sworn, testified as follows:

3

4

DIRECT EXAMINATION

5

BY MR. KUCHAR:

6

7

Q. Good morning, Ms. Wagner.

8

A. Morning.

9

Q. My name is Mark Kuhar. As you know, I represent all
10 the Defendants except the Crawford Education Association.

11

A. Yes.

12

Q. We have here Dick McEwen and Shannon Wagner on
13 behalf of the Association; Defendant Mike Dolecki and Charlie
14 Heller; as well as your attorney and your husband. We're
15 here for your deposition.

16

I'm going to go through the rules even though I know
17 you've heard them several times. If I ask a question which
18 is difficult to answer because it's grammatically deficient
19 or it's a compound question, or for any other reason if you
20 have difficulty answering a question, please tell me that.
21 Same rules apply if you're being asked questions of the other
22 attorneys, too. We'll try to rephrase the question.

23

You have to give verbal responses. The ventilation
24 and the heating system is a little bit on the loud side, so
25 we're both going to have to yell a little bit. I won't be

1 insulted, and please don't be insulted if I'm speaking loudly
2 to you. Do you have any questions?

3 A. No.

4 Q. As you know, if you need to take a break at any
5 time, we can certainly do that. Okay?

6 A. Okay.

7 Q. State your full name and your address, please.

8 A. Rowena Wagner, [REDACTED]
9 [REDACTED] Cochran, PA 16314.

10 Q. In your Complaint you allege that you were born in
11 the Philippines; is that true?

12 A. Yes.

13 Q. When and where?

14 A. December 12, 1972, Manila, Philippines.

15 Q. How long did you live in the Philippines?

16 A. 21 years.

17 Q. So '93 or '92?

18 A. Yes. '93.

19 Q. Did you move from the Philippines to the United
20 States?

21 A. Yes.

22 Q. Have you lived here since?

23 A. I'm sorry?

24 Q. Have you lived in the United States --

25 A. Yes.

1 Q. -- since?

2 A. Yes.

3 Q. Was that '93?

4 A. Yes.

5 Q. Did you move here because of a job or family or
6 what?

7 A. I got married. I married my husband.

8 Q. What is your educational background?

9 A. Graduated May 2000 in -- Edinboro University,
10 elementary education.

11 Q. Bachelor's degree?

12 A. Yes.

13 Q. Do you have any other degrees?

14 A. No.

15 Q. Did you have any formal education in the Philippines
16 beyond high school?

17 A. Yes. I went for three years Philippine Christian
18 University, Bachelor of Arts mass communication, major in
19 journalism, and I didn't finish because of financial
20 difficulties.

21 Q. So you did not finish any degrees --

22 A. No, I did not finish.

23 Q. It's not always apparent when my question is done,
24 and I apologize for that in advance, but for this really to
25 go quickly and to look good as a transcript we do need to

1 take turns.

2 A. Okay.

3 Q. So the answer -- you were giving the answer to the
4 question, you didn't finish any degrees there, right?

5 A. No, I did not.

6 Q. So the only degree you have is the one from
7 Edinboro?

8 A. Yes.

9 Q. Which was awarded in 2000?

10 A. Yes.

11 Q. In elementary education?

12 A. That's correct.

13 Q. Are you certificated to teach in the State of
14 Pennsylvania?

15 A. Yes.

16 Q. In what area?

17 A. Elementary education.

18 Q. Only?

19 A. Only.

20 Q. Now, as far as your degree, did you have any
21 concentrations or -- it wasn't a dual degree, was it?

22 A. No.

23 Q. No concentration --

24 A. No.

25 Q. -- or focus or anything else like that?

1 A. No. Just elementary education.

2 Q. You began working for this District when?

3 A. In 2001, August.

4 Q. That's because you applied?

5 A. Yes.

6 Q. To be what?

7 A. A substitute teacher.

8 Q. When you submitted your initial application, was it
9 for a substitute? Was it for substituting?

10 A. Well, actually, just I filled it out as a teacher.
11 I didn't really -- I guess you have -- before you start
12 working the District as a teacher, you have to be a sub
13 first. That's what I've understood, so --

14 Q. How did you come to understand that?

15 A. Well, actually, Mr. LaScola, who interviewed me, had
16 told me that you have to sub first to get a permanent
17 teaching job.

18 Q. That's what he told you?

19 A. Yes.

20 Q. When?

21 A. On that interview. I'm not sure. It's in 2001.

22 Q. Did anyone else tell you that?

23 A. No.

24 Q. At any time?

25 A. At any time.

1 Q. Just to see if I have it right, you filled out an
2 application to be a teacher --

3 A. Yes.

4 Q. -- and the assignments you got were substitute?

5 A. Yes.

6 Q. You didn't ask to be a substitute teacher, per se,
7 you just filed a teacher application and other supporting
8 material?

9 A. That's correct.

10 Q. But the assignments you were given were substitute?

11 A. That's correct.

12 Q. You recall a long-term absence that Joye Pickens had
13 during the '02/'03 school year, right?

14 A. Yes.

15 Q. What do you recall of that in terms of, you know,
16 what school was it at?

17 A. Cochran Elementary, Grade 2.

18 Q. Do you know when it started? When was she no longer
19 able to teach her position?

20 A. I am not sure the exact date. I think it's in
21 November.

22 Q. If your Complaint said November 15th, would that
23 sound about right?

24 A. Yes.

25 Q. Now, had you subbed for Ms. Pickens prior to her

1 absence? I'm going to keep referring to her absence, and we
2 both understand that I mean the one that started in November
3 of '02 and ran through the remainder of the year, right?

4 A. Yes.

5 Q. Had you subbed for her prior to that absence?

6 A. Yes.

7 Q. How many times?

8 A. I can't recall. A lot of times.

9 Q. More than 50?

10 A. Less than 50 I would say.

11 Q. More than 10?

12 A. Yes.

13 Q. Fewer than 20?

14 A. More than 20.

15 Can we take a break for a second?

16 Q. Sure.

17 (Discussion held off the record.)

18 Q. In your Complaint you do complain that you were not
19 able -- or not asked to replace Ms. Pickens during her entire
20 leave, right?

21 A. Could you say that again, please.

22 Q. In your Complaint you complain about not being
23 chosen to fill in for Ms. Pickens during her entire leave?

24 A. That's correct.

25 Q. You say that you were in that position for some

1 period of time, right?

2 A. Yes.

3 Q. Does November 15th through December 15th --

4 A. That's correct.

5 Q. -- sound right?

6 A. That's correct.

7 Q. We have to take turns.

8 Now, tell me everything you recall about your being
9 chosen for some of that leave but not the rest. Basically
10 walk me through it, what you remember.

11 A. Okay. Right around October Ms. Pickens had told me
12 that she wanted me to replace her for her medical leave
13 because she's going on -- for a hip surgery. So I said,
14 okay. Since I know the kids and I know the routine, so I
15 would be happy to replace you. So anyway, I've been going in
16 and out for her, she's been using her sick leaves, I guess,
17 every day. It's like a week -- like there's two days that
18 she would take off. So finally that one time she said she's
19 in a lot of pain and she would like me to say. So I stayed.
20 And I talked to Mr. Meader, and Mr. Meader said it's okay for
21 me to stay.

22 Q. I'm going to interrupt you a few times. What day
23 was that?

24 A. I can't really recall the day -- exact day, but it's
25 sometime in November then.

1 Q. It's in November?

2 A. Yes.

3 Q. You say you decided to stay or you were asked to
4 stay.

5 A. Yes.

6 Q. What do you mean you were going to leave? How was
7 it that you were going to leave?

8 A. What do you mean "leave"? Well, I mean as a
9 substitute teacher -- I'm talking about being a substitute
10 teacher. Like she asked me to be her sub for her sick leave,
11 so I said it's okay.

12 Q. For the hip replacement?

13 A. Yes. It's okay, I accept the job. So I had
14 confirmed to Mr. Meader about the job, and he said it's okay
15 for me to be her replacement.

16 Q. When did Mr. Meader say that?

17 A. It's in November. I'm not really sure.

18 Q. You can't be anymore certain than that?

19 A. No.

20 Q. Did you take any notes of it?

21 A. No, I did not.

22 Q. Did you make a note in a day planner or anything
23 like that?

24 A. I'm not sure.

25 Q. Was it before or after you started filling in for

1 Ms. Pickens during her long leave?

2 A. Probably before. I'm not sure. I can't really tell
3 you.

4 Q. If you're not sure, that's a good way to answer
5 that.

6 A. Okay.

7 Q. So you're not sure whether it was before your
8 filling in started or after it had started?

9 A. I would say it's before.

10 Q. Are you sure now?

11 A. I'm not sure, but it -- I'm not sure. Let's just
12 put it that way.

13 Q. Okay. You're not sure. And where were you when you
14 had this conversation with Mr. Meader?

15 A. Cochran. I went to his office.

16 Q. In his office?

17 A. Yes.

18 Q. Why did you go to his office?

19 A. Just to -- to confirm about my job -- my subbing
20 job.

21 Q. Was that because Ms. Pickens had already said
22 something?

23 A. I had -- I understand that Ms. Pickens had already
24 talked to Mr. Meader about it.

25 Q. Because Ms. Pickens told you so?

1 A. No, I did -- no, I'm not sure about that.

2 Q. So you went to him to confirm your working in that
3 position?

4 A. Yes.

5 Q. I'm asking you why you did that, and you're saying
6 you had the impression that Ms. Pickens had talked to
7 Mr. Meader?

8 A. That's correct.

9 Q. But you're not sure how you had that impression?

10 A. No, I'm not sure.

11 Q. So when you were going to talk to him to confirm the
12 assignment, was it for the entire period of the leave?

13 A. For the medical leave?

14 Q. Yes.

15 A. Yes.

16 Q. Yes?

17 A. Yes.

18 Q. As opposed to a week or two, you were in there
19 talking about the entire long-term absence?

20 A. That's correct. That's correct.

21 Q. What do you recall actually being said by you and by
22 Mr. Meader? Best you can recall.

23 A. The only thing that I could recall is he agreed that
24 I would be her replacement.

25 Q. That's all you can recall --

1 A. Yes.

2 Q. -- of the meeting?

3 A. Yes.

4 Q. And so, therefore, you don't recall the exact
5 words --

6 A. No.

7 Q. -- that either of you used?

8 A. No. Do you want me to continue?

9 Q. Sure. If there's more to it.

10 A. Okay. And I been -- since then I started making
11 lesson plans and checking papers and entering the grades in
12 her grade book and attending faculty meetings. And
13 Ms. Pickens had called me on the phone and told me that
14 Mr. -- she had talked to Mr. Heller and Mr. Meader about my
15 job for the whole medical leave, which is the end of the
16 semester --

17 Q. What do you mean "which is the end of the semester"?

18 A. Yes. Through the end of the semester.

19 Q. Through the end of the semester?

20 A. Yes.

21 Q. This would have been in what month?

22 A. January would be the end of the semester.

23 Q. Go ahead with what she was telling you.

24 A. And she told me that Mr. Heller and Mr. Meader
25 agreed for me to be her substitute for the whole semester for

1 that end of the semester -- until the end of the semester, I
2 should say.

3 Q. When did that conversation happen?

4 A. Sometime in November.

5 Q. Was that before or after you started actually
6 teaching?

7 A. That was after.

8 Q. So Ms. Pickens asked you if you would fill in, and
9 that's where you had said that she asked you to stay?

10 A. Yes.

11 Q. And at that point it was not a long leave?

12 A. She -- yes. I agree. Yeah.

13 Q. Her hip hadn't been replaced yet?

14 A. No. Hadn't been replaced.

15 Q. So this --

16 A. Because she wasn't sure about when she going to get
17 the hip replacement.

18 Q. So then you had this conversation with Mr. Meader,
19 and then you had another conversation with Ms. Pickens?

20 A. Yes.

21 Q. Who said that -- or who told you that Charlie Heller
22 and --

23 A. Mr. Meader.

24 Q. -- Curt Meader had said it would be okay for you to
25 fill in for the remainder of the semester?

1 A. That's correct.

2 Q. And that would have been until mid January?

3 A. Yes.

4 Q. Did anyone else tell you that?

5 A. No.

6 Q. Go ahead. I think you were telling me what you
7 recall of that, right?

8 A. Yes.

9 Q. Of what you recall about you being used for some of
10 that -- to replace Ms. Pickens for some of the days.

11 A. That's correct.

12 Q. Okay. Go ahead.

13 A. I want to say that mid of November Mr. Heller came
14 during my planning period and told me that I -- that I don't
15 have the right to play politics with Ms. Pickens.

16 Q. Now, this is after -- again, I know I'm asking the
17 question slowly, but that's in hopes that I won't have to ask
18 it a couple times. So just bear with me, please.

19 A. Okay.

20 Q. So this would have been after Ms. Pickens talked to
21 you the second time?

22 A. That's correct.

23 Q. So Mr. Heller came to you?

24 A. Yes.

25 Q. Where?

1 A. In her -- Ms. Pickens' room.

2 Q. You were actually in there teaching a lesson or
3 what?

4 A. It's my planning time. It was my planning time.

5 Q. What do you recall of that conversation?

6 A. He came in the room and told me that Ms. Pickens and
7 I are playing politics. That I should not be -- well, that
8 Ms. Pickens don't have the right to appoint me as her sub.

9 Q. Was that what he said in --

10 A. Yes.

11 Q. I think a couple minutes ago you said you don't have
12 the right to play politics.

13 A. That's -- yes. I'm sorry, I'm nervous.

14 Q. It's okay. I'm trying to be as reasonable as
15 possible with this, but we need to know what you remember.

16 A. Okay.

17 Q. So what do you recall of the exact words that
18 Mr. Heller used?

19 A. It's -- I can't really tell you the exact words, but
20 it's -- he accused me of playing politics, and he accused
21 Ms. Pickens of playing politics.

22 Q. Was she there?

23 A. No.

24 Q. You don't recall exactly what words he used, but it
25 was to the effect of the two of you are playing politics?

1 A. Yes.

2 Q. Don't let me put words in your mouth. I'm just
3 trying --

4 A. That's correct.

5 Q. But that's as specific as you can be because you
6 don't recall the exact words?

7 A. That's correct.

8 Q. What else do you recall of that conversation?

9 A. I told him -- I didn't say anything when he accused
10 me of playing politics. So I said, well, I would still want
11 to be considered for the job if you could come in and observe
12 me, and -- I would like to -- you to come in to observe me.
13 So he said he will do that and he left.

14 And I can't recall the exact date, sometime in
15 December, I guess -- the first week of December he came and
16 told me he wanted to observe me. So I showed him my lesson
17 plan, and I told him what I'm going to do. And he asked me
18 about certain time, I said right around 9:00 or 10:00, and I
19 told him what I was going to do for that day when he comes
20 in. So he said, it's okay.

21 So he came in, and he apologized for such short time
22 of informing me of when he wants to come in to observe me.
23 So -- I can't really recall the exact date of when he came in
24 and observed me.

25 Q. I'm sorry, but all of what you've just discussed,

1 that was in that same conversation where politics was
2 mentioned?

3 A. No.

4 Q. There's another --

5 A. No. I said, December -- first week of December he
6 came again and talked to me.

7 Q. I want to finish that other conversation, though,
8 first.

9 A. Okay.

10 Q. I know he said something about the two of you
11 playing politics.

12 A. That's correct.

13 Q. What else did he say? Did he say, and, therefore,
14 we won't be using you as a substitute teacher or what --

15 A. No. He said he's going to conduct interviews for
16 the job.

17 Q. Ms. Pickens' temporary replacement?

18 A. Yes.

19 Q. Do you recall anything else of that conversation?

20 A. No. That's it. It was such a short time that he
21 stopped by.

22 Q. How long was the whole conversation?

23 A. Four minutes -- three, four minutes.

24 Q. And then you were -- a minute ago you were telling
25 me about a conversation that he had had with you in

1 conjunction with a classroom observation?

2 A. That's correct.

3 Q. And this was in December?

4 A. That's correct.

5 Q. But you can't recall when in December?

6 A. No, I can't recall.

7 Q. If your Complaint says that you were removed on the
8 15th of December --

9 A. The 20th of December.

10 Q. The 20th of December?

11 A. Yes.

12 Q. Does that help you remember when Mr. Heller came in?

13 A. I would say the last of November -- last week of
14 November or first week of December.

15 Q. So you said, I think, that he apologized for the
16 short notice.

17 A. Yes.

18 Q. And then go ahead. I think we're back -- we're
19 current, right? We're back to what you're talking about?

20 A. That's correct. He came in and observed me. He
21 didn't finish the lesson --

22 Q. What do you mean?

23 A. He left before I ended my lesson.

24 Q. How long was he in there?

25 A. 34, 35 minutes.

1 Q. How long was the lesson?

2 A. 45 minutes.

3 Q. Is that the entire class period? Or at elementary
4 you have them all day?

5 A. I have them all day, but that lesson that I had is
6 specific for that observation I had, approximately 45
7 minutes.

8 Q. And he was only there for 34 or 35 minutes?

9 A. Yes, that's correct.

10 Q. That would be for the first 34 or 35 minutes?

11 A. That's correct.

12 Q. Do you know why he left when he did?

13 A. No.

14 Q. Did he say?

15 A. No.

16 Q. How'd the lesson go?

17 A. I think it went well.

18 Q. Did Mr. Heller tell you what he thought about it?

19 A. No.

20 Q. Ever?

21 A. Not that day.

22 Q. When?

23 A. He came in again to show me the observation
24 evaluation.

25 Q. The form?

1 A. Yes. That's correct. And explain me about what he
2 thought about the lesson.

3 Q. Do you recall what he said?

4 A. There's -- no, not really. Because there's a lot of
5 things that's written on that observation form, so I can't
6 really recall everything that he said.

7 Q. My question, though, really is, do you recall
8 anything of what he said not everything?

9 A. Well, he said at first he didn't see my lesson plan.
10 And I didn't object because I was afraid that if I object,
11 then I get blackballed.

12 Q. Why would you have objected? Because he was in --

13 A. Because he saw my lesson plan.

14 Q. So he was incorrect about that?

15 A. Yes.

16 Q. But you didn't object for that reason?

17 A. I did not object for that reason.

18 Q. Was there any specific reason that you thought you'd
19 be blackballed if you objected? In other words, had
20 Mr. Heller done anything specific or was it just sort of
21 generally the fear of being a person trying to get a job?

22 A. That's correct.

23 Q. Which one?

24 A. The last one you said.

25 Q. So you did not object.

1 A. There's a lot of things that he said about his
2 comments that I did not like or it wasn't accurate because he
3 did not finish the whole plan -- the whole lesson that I did
4 that day.

5 Q. Do you recall any of those things that you did not
6 like for that reason?

7 A. First he said I didn't have introduction.

8 Q. He was there for the beginning part, right?

9 A. That's correct. Well, I have to have the list in
10 front of me. I can't really tell you everything. I have to
11 have that evaluation form in front of me, then I'll explain
12 it to you.

13 Q. I may choose to do that, but right now I'm asking
14 you what you can remember. And if the answer is you can't
15 remember without that, you can say that. But I'm wanting to
16 see what you remember without that right now.

17 A. I can't remember. That -- he said I didn't have
18 introduction in my lesson, and the kids were restless. And I
19 really -- I didn't -- again, I did not object to everything
20 he said because I was afraid that he would not consider me
21 for the job.

22 Q. For the same reason we talked about a minute ago?

23 A. That's correct.

24 Q. Was it --

25 A. So he asked me -- I'm sorry.

1 Q. I was just going to ask whether everything he said
2 was wrong? He said you had no introduction when you did, and
3 that was wrong.

4 A. Yes.

5 Q. And then you said that there were other things that
6 you did not object to. So did he get any of it right?

7 A. I'm sorry, what --

8 Q. Was any of his evaluation of your classroom teaching
9 that day --

10 A. Well, he didn't really give me --

11 Q. -- correct?

12 A. I'm sorry.

13 Q. That's okay.

14 A. Well, there some points that he said that I need --
15 I needed improvement for some points, and some of them are --
16 most of them are satisfactory. So I definitely agree with
17 the satisfactory comments that he gave me for the other part
18 of the lesson.

19 Q. Did he overrate you in any areas? Did you think
20 that maybe you thought you could improve in a certain area
21 but he thought it was perfect? Did that happen at all?

22 A. I don't remember that.

23 Q. Do you recall any of other areas where he found
24 deficiencies that you disagreed with?

25 A. Deficiencies?

1 Q. Yes.

2 A. I can't really recall.

3 Q. How long after the actual classroom observation did
4 he come in and review it with you?

5 A. I would say close to two weeks.

6 Q. So about what date?

7 A. I can't recall. I don't remember the exact date.

8 Q. But just to sort of think it through, you think he
9 observed you towards the end of November, beginning of
10 December; is that right?

11 A. That's correct.

12 Q. And you think it was about two weeks that he came
13 in --

14 A. That's correct.

15 Q. -- thereafter to explain it to you?

16 A. Yes.

17 Q. So it would have been, can we say, a week to two
18 weeks before you stopped working that assignment?

19 A. That's correct.

20 Q. But that's as specific as we can be?

21 A. Yes.

22 Q. Do you recall anything else that was said between
23 you and Mr. Heller regarding his observation of you?

24 A. No.

25 Q. Were you observed by Mr. Meader, too?

1 A. Yes.

2 Q. And his position --

3 A. Yes, I was.

4 Q. I'm sorry, his position at the time?

5 A. Principal of Cochran Elementary School.

6 Q. Thank you. Do you recall when he observed you?

7 A. He observed me after Mr. Heller observed me. I
8 can't really give you the exact date, I'm sorry, but it must
9 have been the first week of December.

10 Q. Did he fill out a form?

11 A. Yes.

12 Q. Was he there for the entire lesson?

13 A. Yes.

14 Q. What was the lesson on when he observed you?

15 A. On social studies.

16 Q. So he filled out a form -- when did he review the
17 form with you?

18 A. Less than a week.

19 Q. Thereafter?

20 A. Yes.

21 Q. What do you recall of that conversation where
22 Mr. Meader reviewed the form with you?

23 A. I guess he had the same thing that -- he wrote down
24 he did not see the lesson plan, and I said, well -- I showed
25 him the lesson plan, and I said, you know, why would you

1 think that I wasn't the one who's making the lesson plan.
2 And he said he thought it was Joye Pickens who's still making
3 the lesson plan for me. And I said that's incorrect. So I
4 showed him the lesson plan that I had for that day.

5 Q. Had he seen that when he actually observed you?

6 A. Not on the day that he observed me, but before --
7 before the observation he's been coming in -- in the room,
8 and I been -- I showed him the lesson plan one time before.

9 Q. So after the time he observed you, but before he
10 reviewed the form with you?

11 A. Yes.

12 Q. What was that lesson on?

13 A. Social studies.

14 Q. Thank you. What else do you recall of the
15 conversation between you and Mr. Meader?

16 A. That's about it. He just showed me that I did a
17 good job on that day that he observed me, and he asked me to
18 sign the paper -- the observation form.

19 Q. Did you have any conversations with Mr. Meader about
20 you filling in for Ms. Pickens?

21 A. No.

22 Q. Never at any time?

23 A. No. One time I ask him, that was before Ms. --
24 Mr. Heller came to me and accused me of playing politics, but
25 before then he told me that I could be Ms. Pickens'

1 replacement.

2 Q. Did he say for how long?

3 A. No.

4 Q. Did anyone else observe your teaching while you were
5 filling in for Ms. Pickens?

6 A. No.

7 Q. Do you recall what you were paid when you were
8 filling in for her?

9 A. I think \$85 a day.

10 Q. It was definitely the per-day sub rate?

11 A. That's correct.

12 Q. Do you have any reason to think that the board ever
13 voted to assign you to be Ms. Pickens' long-term replacement?

14 A. Could you repeat that again, please.

15 Q. Do you have any reason to think that the school
16 board ever voted to use you to be Ms. Pickens' long-term
17 replacement?

18 A. I wasn't aware of that.

19 Q. So if they did, you don't know about it?

20 A. No.

21 Q. So there -- I'll withdraw that question. Was there
22 a time when you thought that you were going to be filling in
23 for Ms. Pickens' entire absence?

24 A. That's what I've understood, yes.

25 Q. From Ms. Pickens?

1 A. Yes. And Mr. Meader for telling me.

2 Q. But I thought you said a minute ago he didn't say
3 how long you would be in there.

4 A. I would imagine the entire sick -- medical leave.

5 Q. That was your assumption?

6 A. Yes.

7 Q. When was it clear to you that you would not -- that
8 you would not fill in for the entire leave?

9 A. Ms. Pickens called me.

10 Q. When was that?

11 A. I can't really recall when, but that was -- second
12 week of December she called me and told me that -- do you
13 want me to use her exact word?

14 Q. Yes. Are you reluctant because it's vulgar or --

15 A. She said, we got screwed. That's what she told me,
16 we got screwed.

17 Q. We got screwed?

18 A. Yes.

19 Q. Referring to you and her?

20 A. Yes.

21 Q. Okay.

22 A. And she said that Mr. Heller and Mr. Meader agreed
23 that I would stay for the entire medical leave -- I'm not
24 sure who inform her that I'm not going to be her replacement,
25 but that's what she told me. So I -- the following day,

1 after she talk to me that night --

2 Q. Can we finish that, though.

3 A. Sure.

4 Q. So she said, we've been screwed or we got screwed.

5 A. Yes.

6 Q. What else do you recall of that conversation?

7 A. She said that she thought Mr. Heller and Mr. Meader
8 agreed that I would be her replacement. And that's all I
9 remember in that conversation.

10 Q. Did she say, but, in fact, that's not going to
11 happen?

12 A. No. I don't recall her saying that.

13 Q. It was sort of implied when she said, we got
14 screwed?

15 A. That's what she said.

16 Q. I'm trying to just see if I've got it right. Do you
17 recall saying anything during that conversation?

18 A. No. I don't recall.

19 Q. Do you recall anything else being said by
20 Ms. Pickens during that conversation?

21 A. No. No.

22 Q. Then you were starting to tell us what you did the
23 next day, right?

24 A. The following day I went to Mr. Meader and asked him
25 what happened. And he said, well, that's the first time that

1 it happened that a sub would be -- no. Let me -- let me
2 change that.

3 Q. Take your time. Start over if you want.

4 A. Mr. Meader told me that that's the first time that
5 it happened. Usually when a sub that fills in for a
6 long-term position -- a teacher that's taking that medical
7 leave would be requesting that teacher, and that would be the
8 replacement for that medical leave. And he said, I don't
9 know what happened.

10 Q. Do you recall anything else?

11 A. No.

12 Q. Did you say anything?

13 A. Well, I was emotional that day, and I didn't really
14 stay for a long time in his office. I just talked to him
15 about that and left.

16 Q. So you don't recall anything else being said?

17 A. No.

18 Q. Was it your expectation that you would be paid a
19 higher rate once Ms. Pickens actually had the hip surgery?

20 A. No. I didn't really care about how much I got paid,
21 I guess. I don't know.

22 Q. Did anybody else say anything to you at any time
23 about the situation we've been discussing? You know, you
24 filling in for Ms. Pickens for part of the time but not all
25 of the time. Did anybody else on behalf of the District say

1 anything to you about that ever?

2 A. Including the teachers you mean?

3 Q. Yes. But let's say the nonteachers first. Any
4 other nonteachers?

5 A. No.

6 Q. Which teacher said what?

7 A. Well, I can't really point to who said it, but they
8 were like -- a few teachers that came to me and expressed,
9 you know, that I was wronged.

10 Q. You don't recall who they were?

11 A. No.

12 Q. Is Ms. Pickens your neighbor?

13 A. Yes.

14 Q. How long have you known her?

15 A. Since I started working for Crawford Central.

16 Q. Would that be August of '01?

17 A. 2001, yes.

18 Q. Is that when you met her?

19 A. Yes.

20 Q. So even though she had been your neighbor you
21 hadn't --

22 A. No.

23 Q. Again, I have to finish the question.

24 A. Sorry.

25 Q. No. I appreciate you trying to be cooperative and

1 answer the questions quickly, but I do have to get the whole
2 question out.

3 In the house that you currently live in, had you
4 lived in that from the time that you moved to this Country --

5 A. That's -- yes.

6 Q. -- in '93?

7 A. Yes.

8 Q. And had Ms. Pickens lived in the house that she
9 lived in from '93 through 2002?

10 A. I guess. I'm not sure.

11 Q. You don't know?

12 A. No, I don't know.

13 Q. But to be clear, from 1993 until August of 2001,
14 when you started subbing here, you never talked with
15 Ms. Pickens?

16 A. No.

17 Q. Do you recall how many times you submitted your
18 application to the District?

19 A. A lot of times.

20 Q. Let's be clear that we're talking, first, about the
21 formal application. Do you know what I mean when I say "the
22 formal teaching application"?

23 A. Just one time.

24 Q. Just one time?

25 A. Yes.

1 Q. In August of 2001?

2 A. That's correct.

3 Q. Thereafter did you make it known to the District
4 that you were interested in being considered for numerous
5 positions?

6 A. Yes.

7 Q. But it wouldn't really be submitting an application
8 per se, right?

9 A. That's correct.

10 Q. How did you notify the District that you were
11 interested in other positions?

12 A. Through letter of interest.

13 Q. Letters of interest?

14 A. Yes.

15 Q. Do you recall how many you sent?

16 A. 80, 50. I'm not sure. More than 50 I would say.

17 MR. NICHOLS: What span of time, Counsel, are you
18 talking about?

19 MR. KUHAR: Pardon me?

20 MR. NICHOLS: What span of time are you talking
21 about?

22 MR. KUHAR: From August '01 through the current
23 date.

24 Q. I realize you're approximating, right?

25 A. Yes.

1 Q. Paragraph 12 of your Complaint --

2 A. I'm sorry. I have to take the phone call.

3 Q. Feel free.

4 (Pause in the proceedings.)

5 Q. Paragraph 12 of the Complaint says that the District
6 had a practice of customarily filling vacancies upon the
7 recommendation of the teacher to be replaced. You talked
8 about that a little bit. You said that Mr. LaScola told you
9 that.

10 A. Yes.

11 Q. And I think you said that he was the only person
12 that told you that; is that right?

13 A. Yes.

14 Q. Now, you also have mentioned in your filings the
15 Niessen Hill Elementary School November 12, '02 posting.
16 Does that sound right?

17 A. Yes.

18 Q. So that would have been right before this situation
19 with Ms. Pickens?

20 A. That's correct.

21 Q. What do you know about that position? Basically,
22 everything you can remember about that situation.

23 A. Could you repeat that posting again.

24 Q. Niessen Hill Elementary School.

25 A. I don't recall what grade. I just know it's at

1 Niessen Hill.

2 Q. So you don't recall what grade it was, but there was
3 a position posted?

4 A. Yes.

5 Q. Did you express interest in that?

6 A. That's correct.

7 Q. Was that posting rescinded?

8 A. I guess.

9 Q. You don't know what happened?

10 A. No. I don't know what happened.

11 Q. That's because it was the district administration
12 who was handling that, right?

13 A. Yes.

14 Q. But do you recall whether an actual piece of paper
15 went up saying posting rescinded or anything like that --

16 A. No.

17 Q. -- cancelling the posting?

18 A. No.

19 Q. You're telling me it didn't go up, or you don't
20 recall?

21 A. I don't recall.

22 Q. Do you know whether the District actually filled
23 that position that was posted at Niessen Hill?

24 A. No.

25 Q. Do you have any reason to think that they posted a

1 position and then took the position down to disadvantage you
2 personally?

3 A. No.

4 Q. Now, in your Complaint, you do allege that you
5 applied for a lot of positions -- that you expressed interest
6 in a lot of positions.

7 A. That's correct.

8 Q. As you said so here today, too.

9 A. Yes.

10 Q. But in Paragraph 15 in your Complaint it says that
11 the District did not receive bids from members of the
12 Crawford Central Education Association for seven of the
13 positions that you expressed interest in in '02, '03, and
14 '04. Does that sound right?

15 A. I'm sorry, are you talking about the Federal
16 Complaint or the PHRC Complaint?

17 Q. Thanks for asking. The Federal Complaint.

18 A. That's correct.

19 Q. Now, you did distinguish between all of the
20 positions that you expressed interest in from these seven.
21 Is that because you know that if internal candidates bid on a
22 position the District has to award the position to the
23 internal candidate?

24 A. Yes.

25 Q. And that's because of the collective bargaining

1 agreement?

2 A. That's correct.

3 Q. So is it fair to say that you don't feel that you
4 even could have been chosen for the positions where there was
5 an internal bidder? Is that fair?

6 A. Yes. That's fair.

7 Q. So, really, your Federal lawsuit is about the
8 positions that the District could have awarded to you because
9 there was no internal bidder, plus --

10 MR. NICHOLS: But --

11 MR. KUCHAR: Let me finish the question.

12 Q. Plus the long-term sub position?

13 MR. NICHOLS: Counsel, I object to that question.

14 One, with respect to Paragraph 16, in particular --

15 MR. KUCHAR: I didn't mention 16.

16 MR. NICHOLS: Yeah, but you said -- you're
17 referring to those positions which were not bid on
18 by members of the Union, that's 16. And it says
19 clearly, if you look at 16, the posting of seven of
20 the teaching positions did not receive a bid from
21 members of the Union.

22 MR. KUCHAR: So you're correcting the paragraph
23 reference?

24 MR. NICHOLS: That is, in fact, what you're asking,
25 and maybe the numbering sequence here -- I don't

1 know. I'm looking at the amended -- first Amended
2 Complaint. And what I'm saying is that you notice
3 the emphasis is at least seven.

4 MR. KUHAR: Okay. I understand. Let's tidy this
5 up then a little bit.

6 Q. So whether it's six, seven, or 10 -- I want to
7 clarify not the number. I want to clarify whether you
8 acknowledge that the District could only choose you --

9 MR. NICHOLS: No. No. I object to that.

10 MR. KUHAR: Well, go ahead and object, but let me
11 finish the question.

12 MR. NICHOLS: I object to that.

13 MR. KUHAR: Go ahead. What's your objection?

14 MR. NICHOLS: My objection is that you are asking
15 her to cede, make a concession here, that any
16 application she made to a position on which a
17 member of the Union bid that she necessarily had no
18 claim to that position. That's really what you're
19 asking. And I'm saying we're not making concession
20 of that here today.

21 MR. MCEWEN: I would just like to object to the
22 objection then because that's not an objection that
23 I understand to be proper. I think counsel is
24 entitled to test the witness' understanding of the
25 Complaint that is filed on her behalf. So I don't

1 understand the objection.

2 MR. NICHOLS: The objection is to what he's asking.
3 The question goes to, really, asking for an
4 admission. And you're really asking that one --
5 now, all of the -- you have to keep this in
6 context, and I don't want you to be confused -- I
7 don't want my client to be confused in answering
8 you. The context is that all of the letters of
9 rejection she received from Mr. Heller -- most of
10 them said -- included a statement, no members of
11 the Union bid. And those -- that's what Paragraph
12 16 referred to, from Mr. Heller's letter of
13 rejection. That's where it came from. Okay. And
14 it's at least seven of those letters. All right.
15 Now, as to where members of the Union bid, that was
16 also clear in his letter of rejection that he sent
17 to my client.

18 Now you are asking, as I understand it,
19 Mr. Kuhar, is that you are -- you're asking her is
20 that -- in those situations where members of the
21 Union did bid on a position it's -- is she then --
22 is my client then acknowledging, I think the term
23 you used -- I'll use the word conceded -- that her
24 application would have to necessarily take second
25 place to the person who got the job -- a member of

1 the Union who got the job or that her
2 application -- her claim to that position was not
3 as strong as a member of the Union who got the job.
4 And I already made it clear, we know in those
5 instances where the member of the Union got the job
6 because your letter of rejection you said so. I'm
7 pointing to Mr. Heller.

8 MR. KUHAR: I don't have any idea what your
9 objection is. Let me sort of tidy it up this way.
10 Five minutes ago the witness acknowledged that the
11 District lacked the ability to choose external
12 applicants when an internal applicant bid on a
13 position, and I'm just going to run with that.

14 I was just trying to summarize what we had said
15 a minute ago to keep us on track for the next
16 questions. I wasn't even asking another question.
17 That had already been asked and answered. So to
18 the extent there's a question hanging out there,
19 I'll withdraw it.

20 Q. Is it fair to say -- now, I'm asking you questions
21 about what you know and don't know, not to concede something
22 from a legal standpoint. I'm just asking what you know and
23 don't know.

24 You don't know -- you personally don't know which
25 positions were bid on by internal applicants and which were

1 not, do you?

2 A. That's correct, I don't know.

3 Q. What you know about that is what was told to you by
4 the administration?

5 A. Yes.

6 Q. Now, regarding the positions, and this would be --
7 right now I'm asking about regular full-time positions not
8 sub positions. Do you understand what I mean?

9 A. Yes.

10 Q. Regarding those regular vacancies, which, again, the
11 Complaint says were at least seven -- those are the ones that
12 I'm referring to. Regarding those, do you know which
13 positions in particular your Complaint is referring to? In
14 other words, sitting here today can you tell me that there
15 was a position at this school at this time and a different
16 position at a different school at a different time? Can you
17 tell me what specific jobs were not bid upon by internal
18 applicants that you think you should have gotten?

19 MR. NICHOLS: Mr. Kuhar, in this situation we have
20 the letter of rejection. I doubt my client, you
21 know, can recite to you the specific position. But
22 I can -- for edification purposes, we have the
23 letters of rejection from Mr. Heller.

24 MR. KUHAR: Mr. Nichols, I don't know what kind of
25 objection that is, but it can't be something

1 designed to increase the efficiency because all
2 it's doing is slowing us down. If she doesn't
3 know, she's going to say she doesn't know and we're
4 going to move on. I'm allowed to ask that
5 question.

6 MR. NICHOLS: All right. Go ahead.

7 A. I'm not sure.

8 Q. Because there was some exchange there, I want to be
9 clear that you understand the question that I'm asking. And
10 I'm going to try to make it easier by saying the following
11 things: I know that you applied for a large number of
12 positions since you started working here in '01, some sub
13 positions and some regular positions, right?

14 A. That's correct.

15 Q. A lot of those positions were bid upon by internal
16 bidders, right?

17 A. Yes.

18 Q. But some were not?

19 A. Yes.

20 Q. And those that were not were filled with external
21 applicants, fair?

22 A. Yes.

23 Q. I'm saying, sitting here today -- knowing that you
24 don't have the records at your disposal right now, but
25 sitting here today do you recall any specific positions that

1 you expressed interest in, which you felt you were qualified
2 for, but which were not bid upon by internal bidders?

3 A. Fifth grade, Cochran Elementary School.

4 Q. Do you remember what year?

5 A. No.

6 Q. Pardon me?

7 A. No.

8 Q. Any others?

9 A. First grade, Cochran.

10 Q. Do you remember what year?

11 A. No.

12 Q. Any others?

13 A. Yes. Just a minute.

14 Q. Take your time.

15 A. Fifth grade, First District.

16 Q. Elementary?

17 A. Yes.

18 Q. What year?

19 A. I'm not sure. Second grade, First District.

20 Q. Do you recall the year?

21 A. No. First grade, First District.

22 Q. The year?

23 A. No.

24 Q. I'm sorry?

25 A. I don't remember the year. Kindergarten,

1 Elementary -- I mean, East Elementary.

2 Q. Don't recall the year?

3 A. No. I don't recall the year. Fifth grade, East
4 End.

5 Q. I'm sorry, fifth grade, East End?

6 A. Yes.

7 Q. The year?

8 A. Don't remember. Kindergarten, West End.

9 Q. The year?

10 A. Don't remember. That's all I could think of right
11 now.

12 Q. Thank you. Do you know who was chosen for each of
13 those positions?

14 A. Could you give me the first one that I mentioned.

15 Q. Fifth grade, Cochran Elementary.

16 A. Lorie Carr.

17 Q. I am going to ask you about the other ones in a
18 minute.

19 A. Okay.

20 Q. But with respect to Lorie Carr, do you know what her
21 credentials and qualifications are?

22 A. No. Well, I might have seen it, but I don't recall
23 everything that was on the file.

24 Q. And then, first grade, Cochran?

25 A. Yes.

1 Q. Who was that?

2 A. Danielle Morris.

3 Q. Danielle Morris. Do you know anything about her
4 qualifications?

5 A. No.

6 Q. Let me ask it this way: Do you know anything about
7 the qualifications of any of the people who got these
8 positions?

9 A. I am not really sure unless I have the papers in
10 front of me.

11 Q. Have you thought of any other positions while we've
12 been --

13 A. No.

14 Q. Are you aware of anything, any occurrences that you
15 either heard about or you saw or you heard, things said --
16 are you aware of anything that would tend to establish that
17 these people were chosen over you because of your country of
18 national origin or your race?

19 A. No.

20 Q. What about any of the others that you can't
21 remember? I mean, are there any positions that --

22 A. I have a question. Are we talking about the
23 permanent teaching position here or the long-term subbing,
24 too?

25 Q. Permanent for now.

1 A. That's all I could remember right now.

2 Q. Are there any other permanent positions where you
3 are aware of anything that would tend to establish that you
4 were chosen -- I'm sorry, that external applicants, other
5 than you, were chosen instead of you because of your country
6 of national origin or your race?

7 MR. NICHOLS: Mr. Kuhar, the Complaint speaks for
8 itself.

9 MR. KUHAR: I'm asking her about whether she has
10 any information that would tend to support the
11 Complaint. That is classic deposition questioning.
12 That's what we're here for, for me to find out what
13 facts she knows, if any, that tend to support her
14 Complaint.

15 MR. NICHOLS: Well, as I say, the allegation
16 states it for itself. It's clear, the allegations,
17 and what is stated, the PHRC Complaint, and also
18 stated here, the Federal Complaint speaks for
19 itself.

20 MR. MCEWEN: Mr. Nichols, the allegations don't
21 speak for themselves. And as Mr. Kuhar has
22 indicated, the whole purpose of us being here today
23 is to try to determine what information your client
24 may or may not have that supports the allegations
25 that are made in the Complaint.

1 MR. KUHAR: I'll try to be as efficient as possible
2 with my questioning to get through this, but I'm
3 entitled to know what she knows.

4 MR. NICHOLS: The Complaint speaks for itself. The
5 allegations are the national origin and
6 discrimination and racial discrimination.

7 MR. MCEWEN: We need to know what the basis for
8 those allegations are. We may understand what the
9 allegations are, but the purpose is to find out the
10 basis for them.

11 MR. NICHOLS: We know what the basis is because we
12 read the allegations. Our position's stated --

13 MR. MCEWEN: We know what you told us the basis is.
14 We don't know what she thinks that basis is, and
15 she's the Complainant.

16 MR. NICHOLS: First of all, I represent her.

17 MR. KUHAR: We know that.

18 MR. NICHOLS: I represent her, and the basis is
19 what this case is all about.

20 MR. MCEWEN: That's why we need to ask her about
21 it.

22 MR. NICHOLS: So the allegations, we know the
23 nature of them, national origin and racial.

24 MR. KUHAR: And I didn't ask her that. I asked her
25 whether she was aware of any occurrences. And she

1 understood the question.

2 MR. NICHOLS: I think you -- she doesn't
3 understand -- it's not clear here when you say what
4 tends to establish that.

5 MR. KUHAR: It requires the use of some judgment on
6 her part. Most questions do.

7 MR. NICHOLS: I want to be absolutely clear here,
8 though, that she understand your question.

9 MR. KUHAR: Well, I'll ask her.

10 MR. NICHOLS: I think you need to rephrase the
11 question, Mr. Kuhar, because it could be --

12 MR. KUHAR: You know what, I instructed the witness
13 to tell me if she has questions. If she doesn't
14 understand what I'm asking, she will tell me, and
15 she's done that a few times. Which I appreciate.
16 When I asked her this question, she had no problem
17 understanding it. And what you're doing is
18 obstructing me, and we're in about the fifth minute
19 of it right now, and I just need to hear the answer
20 to the question.

21 MR. NICHOLS: It's more important that what is said
22 and what is it asked be clear. That's very
23 important.

24 MR. KUHAR: I'll do my best to be clear.

25 MR. NICHOLS: All right. That's what I wanted.

1 A. Could you please rephrase the question.

2 MR. KUHAR: Can you reference it.

3 (Record read back.)

4 A. Could rephrase that question.

5 Q. Sure. If I'm given the opportunity. You had gone
6 through a number of specific positions, fifth grade,
7 Cochran Elementary, Lorie Carr, and -- you had given me
8 that list. And then I had asked you at the end of that list,
9 are you aware of any occurrences, anything that you had heard
10 or seen, any facts, any things that had happened -- I'm
11 trying my best to explain it -- which would tend to suggest
12 that those decisions to choose those people instead of you --

13 A. Are we talking about since I got hired as a
14 substitute teacher?

15 Q. Yes.

16 A. From August of 2001 --

17 Q. Right.

18 A. -- until the present?

19 Q. Yes.

20 A. If there's any occurrences.

21 Q. Yes. Can I finish the question, though? You wanted
22 me to clarify it.

23 A. Go ahead. I'm sorry.

24 Q. So you had given the answer to the specific
25 positions -- regarding those specific positions that you were

1 not aware of any facts that tended to suggest that those were
2 because of your national origin or your race, and then I had
3 just said, can you think of any regular full-time
4 positions -- in other words, in addition to the ones that you
5 could remember that we wrote down on the list, can you think
6 of any other full-time positions where you're aware of
7 circumstances that would tend to suggest that those decisions
8 were made because of your race or national origin? Do you
9 understand the question?

10 A. Yes.

11 Q. Thank you. What's the answer?

12 A. First of all, I was mislead by Mr. LaScola when he
13 said you have to sub first in order to get a permanent job.
14 Okay. This is my fifth year as a substitute teacher, and I
15 could not even secure a long-term subbing. There's a lot
16 of -- there's a lot of times I was requested by other
17 teachers for three weeks and was denied of that opportunity.

18 Q. I am going to ask you about long-term sub positions
19 that you feel that you would have been a suitable choice for.
20 We can talk about those in a minute. I'm trying to divide it
21 up so that it's easier for you to answer questions about
22 them. If you want to answer that now -- if you want to talk
23 about that now, you can.

24 A. Yes. I would like to.

25 Q. Go ahead. So Mr. LaScola misled you you were

1 saying.

2 A. That's correct. Ms. Pickens had told me that it's a
3 practice of the District if somebody's going on a medical
4 sabbatical leave they would -- actually, even Mr. LaScola had
5 told me that. He actually gave me an example of my operating
6 teacher, who's Mr. McCullough, he said if Mr. McCullough gets
7 sick and chose not to return to his job, then that's your
8 opportunity to get a permanent job. Okay. Other teachers in
9 different schools have told me that -- the practice of the
10 District of employing long-term subs and then they became
11 full-time teachers.

12 Q. They hold you that that had happened?

13 A. Yes. That had happened. And before -- after I
14 filed the Complaint at PHRC, I went to Edinboro and talked to
15 my advisor and told her my situation about Ms. Pickens'
16 incident, and she had told me to talk to Dr. Arnold, Equal
17 Services and --

18 Q. Who was your advisor?

19 A. Dr. Melvin.

20 Q. Who told you to see Dr. Richard Arnold?

21 A. Yes. So I went to Dr. Arnold and told me that he
22 was surprised that I had to undergo interviews for a
23 long-term subbing because he was the curriculum administrator
24 before here in Crawford Central and he told me the practice
25 is, the teachers request and that's who they put in for that

1 position. So he advised me to go see Dr. Armedia Dixon.

2 Q. Yes. Go ahead. Did you?

3 A. Yes.

4 Q. What did she tell you?

5 A. She had told me about the practice, too, and she had
6 told me about her case.

7 Q. Do you recall when she last worked for the District?

8 A. No.

9 Q. Do you know if it was in the '90s?

10 A. I'm not sure, no.

11 Q. Go ahead. She had told you what?

12 A. About the practice of hiring long-term substitute
13 teachers.

14 Q. What did she say?

15 A. She said that teachers request for them.

16 Q. And what?

17 A. And that's where --

18 Q. And the request is often honored?

19 A. Yes.

20 Q. Okay.

21 MR. NICHOLS: Take your time.

22 Q. Take your time.

23 A. And the incident of George Wright telling my husband
24 that blacks and browns are not as smart as white people.

25 Q. Did you hear that yourself?

1 A. No, I did not.

2 Q. I understand. Go ahead. If there's anything else.

3 MR. NICHOLS: Counsel, what is the question?

4 MR. KUHAR: She told me she understood the
5 question, and she's continuing with her answer.

6 MR. NICHOLS: Do you understand the question that
7 he asked you? Because there were two or three
8 questions.

9 A. You're asking me if there are any occurrences that
10 would make me believe that I am being discriminated against.

11 Q. With respect to the full-time positions first, and
12 then in a minute I'm going to ask about the part-time
13 positions, but, yes, that's exactly right.

14 A. Knowing the practices of hiring substitute teachers,
15 putting long-time -- to be a long-time teacher -- I'm sorry,
16 let me say that again.

17 Q. Sure.

18 A. Knowing the practice that the District have of
19 filling in long-term position, okay, requesting a substitute
20 teacher and then becomes a permanent teacher, I guess.
21 Mr. Heller terminating me for that long-term job,
22 Ms. Pickens'.

23 Q. We already talked about that, right?

24 A. Yes. And Mr. Meader telling me that that's the
25 first time that it happened. Usually, when a teacher

1 requests for a sub, that that sub usually takes over. That's
2 all I could think of right now.

3 Q. Thank you. You applied for a number of long-term
4 substitute positions as well as those permanent positions
5 that we talked about, right?

6 A. Yes.

7 Q. Is that the right way for me to say it, that you
8 applied for long-term sub positions or just that you had told
9 the District you were very interested in them generally?

10 A. That's correct.

11 Q. Which one?

12 A. Actually, you don't really apply for the long-term
13 subbing position because it's not really posted.

14 Q. So it's just a matter of letting the District know
15 you're interested?

16 A. That's correct.

17 Q. Which you did?

18 A. Yes. Do you want me to tell you --

19 Q. Which positions you can remember?

20 A. Yes.

21 Q. Exactly.

22 A. Ms. Pickens' job. Okay. I forgot to tell you that
23 I wasn't going to be out -- Mr. Heller wasn't even going to
24 consider me for interview on that job.

25 Q. In late '02?

1 A. Yes. Ms. Pickens' job.

2 Q. How do you know that?

3 A. Because it was like the second week of December, and
4 I still haven't got a letter to confirm that I'm going on an
5 interview, and I had to see Mr. Meader and bugged him about
6 considering me. And he said they will let -- he will let
7 them know.

8 Q. How long after the other people were interviewed
9 were you interviewed?

10 A. I'm not sure.

11 Q. Is it possible it was the same day?

12 A. I am not sure.

13 Q. You were telling me about that, and then you were
14 going to -- I think you were about to give me some long-term
15 sub positions.

16 A. Yes.

17 Q. And I think I was trying to make it clear that, and
18 to check with you to see if I got it right, you don't apply
19 formally for long-term sub positions? It's just a matter of
20 letting the District know that you're interested in them --

21 A. That's correct.

22 Q. -- and then you hope you're chosen for them?

23 A. That's correct.

24 Q. So you're going to give me some long-term sub
25 positions?

1 A. Short-term, actually.

2 Q. Thanks for correcting me, but let me finish it.

3 You're going to tell me some short-term --

4 A. And long-term.

5 Q. -- and long-term sub positions which you would have
6 liked to have had --

7 A. Yes.

8 Q. -- from August '01 through the current date, right?

9 A. That's correct.

10 Q. Very good. Go ahead.

11 A. There's a couple of times that Ms. Marusca,
12 Cochran Elementary kindergarten, had asked me if I could
13 fill in for three weeks.

14 Q. So there were two times when that happened?

15 A. Yes.

16 Q. What year?

17 A. I can't really tell you.

18 Q. Do you know who was chosen?

19 A. Well, the first one is Erin Morgan, and the second
20 one is Ms. Adams. I'm not sure about her first name.

21 Q. Ms. Adams?

22 A. Yes.

23 Q. Erin's a female, too?

24 A. Yes.

25 Q. So these ladies were chosen instead of you?

1 A. That's correct.

2 Q. Do you have anything that would tend to establish
3 that they were chosen rather than you because of your country
4 of national origin or race?

5 A. Well, first of all, Ms. Marusca had been asking me
6 to be her substitute. I know the routine and I know the
7 kids, and some of the parents, too. The students -- I mean,
8 I just can't see any reason for three weeks why couldn't they
9 give me the three-week job.

10 Q. So you're inferring that it was discrimination?

11 A. That's correct.

12 Q. Any other reason to think that?

13 A. I would say part of that is retaliation because of
14 the PHRC case that I filed. Fourth grade, Cochran Elementary --
15 Elementary --

16 Q. Why do you think it's discrimination? The timing?

17 A. That's correct.

18 Q. Any other reason to think it's retaliation?

19 A. Yes.

20 Q. What?

21 A. That's it.

22 Q. No other reason beyond the timing?

23 A. Yes.

24 Q. Go ahead. Fourth grade?

25 A. Fourth grade, Cochran Elementary, I heard that

1 Mr. Erdley was going back to the high school and that
2 position will be open. So I went to Ms. Darling in her
3 office and talked to her about my interest in that job.

4 Q. Do you recall what year?

5 A. That was -- I'm sorry, I can't really recall what --
6 2003/2004, just right after I filed that Federal suit.

7 Q. Okay.

8 A. I told her I would -- to consider me for that job.
9 And she said, you know, your case hitting the radio and the
10 newspaper today, she said, I can't help you.

11 Q. What do you recall of that conversation when she
12 said that? What do you recall you saying, and what do you
13 recall she said?

14 A. I just said, I heard that Mr. Erdley is leaving, and
15 I would like to be considered for that job. And she said,
16 Rowena, with your case hitting the newspaper and the radio
17 this morning, I can't help you. That's it.

18 Q. That's all that you can remember?

19 A. Yes. I left because I was embarrassed and hurt. I
20 didn't speak to her after that.

21 Q. You consider that an occurrence which would tend to
22 suggest it was retaliation?

23 A. That's correct.

24 Q. You definitely do understand my question. I mean,
25 go ahead. Are there other positions?

1 A. Second grade, First District.

2 Q. Do you recall the year?

3 A. 2005/'06 school year.

4 Q. What position?

5 A. Second grade.

6 Q. I'm sorry, the name of the person who's out?

7 A. Ms. Costello.

8 Q. And you weren't chosen for that. Who was?

9 A. I don't know. Ms. Costello talked to me and said, I
10 talked to Charlie and requested you for my sub, and he said
11 I'm going to see what -- she's -- well, I'm not exactly sure
12 what he told her, but she had told Mr. Heller that she wanted
13 me to replace her for her maternity leave.

14 Q. At least that's what she told you she did?

15 A. Yes.

16 Q. You weren't there when it actually happened?

17 A. No.

18 Q. And then you weren't chosen, someone else was
19 chosen?

20 A. That's correct.

21 Q. You think that that was because of your having filed
22 the PHRC charge or your race or your country of national
23 origin?

24 A. That's correct.

25 Q. And the reason you think that -- is there anything

1 more to it than the timing?

2 A. It was just a pattern. I mean, I can't get a
3 short-term job, long-term job, so why would they give me a
4 permanent position. It's just a pattern.

5 Q. I understand. Anything specific to that situation?

6 A. That's all I can remember.

7 Q. Any other positions?

8 A. That's all I could remember.

9 Q. Do you know who was chosen -- if I asked you this
10 already, I apologize. I think maybe you told me. You don't
11 know who was chosen to replace Ms. Costello?

12 A. I don't know.

13 Q. Now, when you said -- you referenced a pattern. Is
14 it fair to say that these things that you've identified,
15 these occurrences which tend to suggest discrimination or
16 retaliation --

17 A. That's correct.

18 Q. -- that they apply to both the decisions not to
19 employ you on a regular basis as well as the decisions not to
20 choose you for long-term subs?

21 A. That's correct.

22 Q. And that sitting here today those are the things you
23 can think of?

24 A. Yes.

25 Q. Now, in your Complaint it indicates that you think

1 that you were wrongfully interviewed. You know, that you
2 were interviewed when you should not have been. Do you feel
3 that you were interviewed when you should not have been?

4 A. That's correct.

5 Q. When?

6 A. For Ms. Pickens' job.

7 Q. Because it was not necessary?

8 A. That's correct.

9 Q. Do you know whether the successful candidate -- I'm
10 sorry, the person chosen for that long-term vacancy was
11 interviewed?

12 A. No.

13 Q. Who was it?

14 A. Ms. Sallowics, Amy Sallowics.

15 Q. Do you think the District has unfairly conducted job
16 postings? You reference that in your Complaint.

17 A. I'm not sure. Could you say that again, please.

18 Q. Sure. Is the District doing anything in terms of
19 the way it posts its positions which is disadvantaging you
20 because you filed a PHRC charge or because of your national
21 origin or your race?

22 A. I'm not sure how to answer that question.

23 Q. Well, let me try to make it easier, clearer. You've
24 already talked about the pattern, as you referred to it, and
25 that you had been recommended for some positions that you did

1 not get, and so you are, you know, suspicious of those
2 decisions. And I'm not asking you to cancel that testimony,
3 but I'm just saying, when it comes to job postings in
4 particular, so far in your deposition you haven't really
5 complained about any job postings that were put up in the
6 wrong fashion, maybe taken down too soon, or maybe they were
7 hidden from you -- you know, I'm making things up trying to
8 jog your memory. Can you think of anything that the District
9 has done wrong which has disadvantaged you because of your
10 filing that PHRC charge and your status when it comes to
11 postings, if anything?

12 MR. NICHOLS: Counsel, you did make one statement
13 which stands to be corrected.

14 MR. KUCHAR: What's that?

15 MR. NICHOLS: You said that the Complaint -- she
16 has not made any complaint regarding the postings
17 being put up wrong or not being properly complied
18 with. Postings --

19 MR. KUCHAR: That she didn't say that here today.

20 MR. NICHOLS: No, but through her Complaint.

21 MR. KUCHAR: I know. I'm just trying to help her
22 out.

23 MR. NICHOLS: The Niessen School --

24 MR. KUCHAR: Right. Is in her Complaint.

25 MR. NICHOLS: In her Complaint.

1 MR. KUHAR: And when I said she hadn't complained
2 about it, I meant so far today in her deposition.

3 MR. NICHOLS: Well, speaking through her Complaint,
4 to be accurate.

5 Q. Let's be clear, I'm not asking you to waive any part
6 of your Complaint. Your Complaint references the Niessen
7 Hill position, and I'm not asking you to ignore that or
8 cancel that or anything like that. I'm just asking you, what
9 has the District done wrong when it comes to posting that has
10 disadvantaged you because of your status, if anything?

11 MR. NICHOLS: Counsel, I think that's a confusing
12 question. Let me suggest, if you asked her, has
13 she been disadvantaged because the District has
14 failed to post positions on a timely basis, I think
15 that would be more accurate. Has she been --
16 because the District has failed to post positions
17 on a timely basis.

18 MR. KUHAR: This lawsuit isn't about what's timely
19 and isn't timely.

20 MR. NICHOLS: Let me put it this way: In
21 situations where the position is already filled and
22 then the posting comes up, I don't think you can
23 call the posting timely or helpful, you know, in
24 that kind of situation

25 MR. KUHAR: But, see, my question includes that but

1 is broader.

2 MR. NICHOLS: You need to clarify that. It's
3 ambiguous.

4 MR. KUHAR: Okay. I'll clarify this. It's not
5 ambiguous.

6 MR. NICHOLS: You understand what I'm saying?

7 MR. KUHAR: No, I don't, but I'm going to try to
8 satisfy you.

9 MR. NICHOLS: Let me say this again: With this
10 posting, if there's a situation where the posting
11 has been failed to put up on a timely basis, the
12 position's filled, and then the posting goes up --

13 MR. KUHAR: Apparently that's something --

14 MR. NICHOLS: -- certainly she's disadvantaged
15 because she hasn't been apprised of the opportunity
16 to apply.

17 MR. KUHAR: Apparently that's something you want
18 her to say that's why you're saying it.

19 MR. NICHOLS: No. I just want the facts to be
20 clear. I want the record to be clear. I don't
21 want her to be blindsided so she can intelligently
22 respond to your questions. But if you ask the
23 question in an ambiguous fashion, she can't
24 respond, and then the truth cannot be gotten at.

25 Q. Do you understand, Ms. Wagner, that if you don't

1 understand my question you're supposed to tell me that you
2 don't understand the question?

3 A. Yes.

4 Q. I think you do because you've done that a number of
5 times, right?

6 A. Yes.

7 Q. My question is designed to be as easy to answer as
8 possible because I'm not limiting it. I'm saying, tell me
9 everything that the District has done wrong when it comes to
10 postings that -- everything that you can think of that has
11 disadvantaged you because you filed a Complaint, because
12 you're Filipino-born, or because you're Asian, if any.

13 MR. NICHOLS: You don't know, do you?

14 A. I'm not sure how to answer it.

15 MR. MCEWEN: I object to counsel suggesting answers
16 to the witness.

17 A. I just don't know how to answer it. That's what I
18 said earlier, I just don't know how to answer it.

19 MR. NICHOLS: She doesn't know how to answer it.

20 That's her answer.

21 Q. Now, you did not ask me to clarify the question. I
22 mean, it's obvious Mr. Nichols has something in mind, and
23 maybe that's confusing you. But my question isn't confusing
24 you or you would have told me to rephrase the question.

25 A. I don't know how to answer the question.

1 Q. You don't know how to answer it?

2 A. Yes.

3 Q. But it's not because you don't understand the
4 question?

5 MR. NICHOLS: Counsel, I don't think she has the
6 basis to answer it, and that's what she's saying.
7 I don't know she said --

8 MR. MCEWEN: If she doesn't have the basis to
9 answer the question, then why are we here?

10 MR. KUHAR: Yes. Why do we have a lawsuit?

11 MR. NICHOLS: If you had responded to my questions
12 during the interrogatories or depositions, we would
13 know that -- she would know, and we would know,
14 more. But for us to -- you to -- when I pose
15 questions going to that, about the posting policy,
16 you come back with some nonresponsive. Then you
17 ask her to come in here and set us up.

18 MR. KUHAR: Mr. Nichols, first --

19 MR. NICHOLS: Set us up whether the District is
20 complying. How do we know whether you post it when
21 you wouldn't respond to my question regarding the
22 posting. That's the question I want to put on the
23 record. And she said -- no wonder we can't
24 respond. We don't have the information -- all the
25 information. That's what discovery's about. We

1 don't have all the information about the posting
2 policy, and to date you have not responded
3 forthrightly to my questions about posting.

4 And it's strange that the counsel of the Union
5 sets over there obsequiously with respect to the
6 questions asked about the manner of the School
7 District and has said nothing about that. The
8 kinds of responses you have sent me --

9 MR. MCEWEN: I object to the ad hominem personal
10 attack.

11 MR. NICHOLS: I don't recant it. I tell you that.

12 MR. KUCHAR: I don't understand what the objection
13 is. If we have to put this issue before the
14 Court --

15 MR. NICHOLS: We'll put it before the Court.

16 MR. KUCHAR: No, we won't. Unless we have to.

17 MR. NICHOLS: Because you haven't been responsive
18 to my question. And I'll take all of those
19 answers -- those half-baked answers you have sent
20 me, halfhearted, no way -- nonresponsive to my
21 interrogatories, my depositions, admissions --

22 MR. KUCHAR: What are we doing? What are we doing
23 here?

24 MR. NICHOLS: I'd like to take those to the Court
25 and show it to the Court.

1 MR. KUHAR: Do that. We're here for Ms. Wagner's
2 deposition, which was delayed by eight weeks.
3 Which I understand because of your pregnancy and
4 childbirth. We only have a month left of
5 deposition, Mr. Nichols.

6 MR. NICHOLS: It don't matter. The timing doesn't
7 matter to me. The truth matters, Mr. Kuhar.

8 MR. KUHAR: Are you going to --

9 MR. NICHOLS: If I have to go to the Court and say
10 let's have another six months -- the truth, her
11 future, is that important?

12 MR. KUHAR: Are you telling me that she cannot
13 answer the question? You're telling her not to
14 answer the question?

15 MR. NICHOLS: What she said this morning, it's
16 based upon what we have -- she said, I can't answer
17 the question. I believe that's accepted as an
18 answer.

19 Q. Will you tell me why you can't answer the question.

20 MR. NICHOLS: Let me say this, Mr. Kuhar --

21 MR. KUHAR: Will you let her answer.

22 MR. NICHOLS: Let me say this about the timing,
23 though. If I have to go and ask the Judge for
24 another six months, I'll do it.

25 MR. KUHAR: Fine.

1 MR. NICHOLS: We're not going to be railroaded.

2 MR. KUHAR: The deadline that I have to work with
3 is the one that the Judge has given me.

4 MR. NICHOLS: I will ask him to change it.

5 MR. KUHAR: Great. And you can guarantee me --

6 MR. NICHOLS: I will ask him to change it. We
7 won't be railroaded. Her future is on the stake.
8 I'll ask the Judge -- I'll say to the Judge --
9 we're not going to be railroaded.

10 MR. KUHAR: We're taking a five-minute break. This
11 is bizarre. We're taking a five-minute break. I
12 don't know what else to do.

13 (Pause in the proceedings.)

14 MR. KUHAR: We're back, it's about 11:20. Let's
15 see how we can make this go.

16 Q. Do you have any urge to clarify anything? I realize
17 it was kind of a heated exchange there towards the end. Do
18 you want to say anything before we proceed in terms of
19 supplementing an answer or anything?

20 A. No.

21 Q. Now, the lawsuit actually names not just the School
22 District. Do you know that it names the school board and the
23 individuals --

24 A. Yes.

25 Q. -- Mr. Heller and Mr. Dolecki?

1 A. Yes.

2 Q. Since they are Defendants, I want to ask you
3 whether, in addition to anything we've already talked about,
4 whether -- let's ask about Mr. Dolecki first. Whether
5 Mr. Dolecki ever wronged you in any way in addition to what
6 we've already talked about?

7 A. No.

8 Q. What about Mr. Heller?

9 A. I don't know.

10 Q. None that you know of?

11 A. Could you repeat that question again?

12 Q. Sure. Since he's a Defendant, Mr. Heller, I'm
13 asking whether -- I'm asking you to tell me any and all ways
14 in which he has wronged you, other than what we've already
15 talked about.

16 A. Other than what we have already talked about?

17 Q. Correct.

18 A. I don't know.

19 Q. What about the board? I mean, you did -- your
20 lawsuit is -- and I realize you were referring on your lawyer
21 for legal advise regarding how to structure the lawsuit, so
22 I'm not trying to ask a trick question here. But the lawsuit
23 does mention the board itself, in addition to the School
24 District. So I'm wondering whether any of the school board
25 members did anything that you thought was unfair to you? And

1 you did reference a conversation that you said your husband
2 reported with Mr. Wright, so I would say anything in addition
3 to that.

4 A. I don't know.

5 Q. Now, there was a conversation between your husband
6 and his brother and Mr. Dolecki and Mr. Heller. You heard
7 that talked about at least, right?

8 A. Yes.

9 Q. Were you at that?

10 A. No.

11 Q. Were you here for Mr. Heller's deposition?

12 A. Yes.

13 Q. It was two parts, right?

14 A. Yes.

15 Q. And you were here for both parts?

16 A. That's correct.

17 Q. Did you hear him testify that at the time of your
18 observation, the one he did in 2002, that he gave you some
19 suggestions to make you a more viable candidate? Do you
20 recall him saying that he did that?

21 A. No, I don't.

22 Q. Well, regardless of what --

23 A. Maybe he said it, but I don't recall it.

24 Q. I understand. And those are two separate ideas,
25 right? Whether he said it in his depo, and you don't recall

1 that he did?

2 A. Yes.

3 Q. And then, in reality, did it happen? That would be
4 the second question. Did he, at that time, give you
5 suggestions to make you a more viable candidate for teaching
6 positions? In November or December of 2002.

7 A. That's correct. Yes.

8 Q. Did he do so?

9 A. Yes.

10 Q. How many times did you talk to him where he did
11 that?

12 A. Just on that one time that he had wrote that
13 evaluation form.

14 Q. Where you --

15 A. He explained me about the suggestions that he had.
16 That's it.

17 Q. Do you recall anything more about that? His
18 suggestions to make you a more viable candidate?

19 A. On that specific day?

20 Q. Yes.

21 A. No.

22 Q. You just don't remember anything else that was or
23 wasn't said?

24 A. That's correct.

25 Q. Did you meet with Mr. Heller in the summer of 2004?

1 A. Yes.

2 Q. Where was that?

3 A. In his office.

4 Q. Do you recall when?

5 A. No.

6 Q. But it was the summer?

7 A. Yes.

8 Q. What do you recall of that meeting? Can we start
9 with who was there?

10 A. Suzanne Good, Mr. Heller.

11 Q. So just the three of you?

12 A. Yes.

13 Q. What do you recall being said by those three people?

14 A. Well, the purpose of that meeting was to ask him why
15 I wasn't selected for the permanent teaching positions.

16 Q. At any time or in particular on the -- in the spring
17 of '04?

18 A. Yes. For 2004/2005 position.

19 Q. Because the District did hire a number of elementary
20 teachers then, right?

21 A. That's correct.

22 Q. And you were not among them?

23 A. That's correct.

24 Q. So are you telling me that's the reason you asked to
25 have the meeting?

1 A. That's correct.

2 Q. Go ahead.

3 A. I asked him why I wasn't selected, and -- well,
4 that's not the first question I ask him. I ask him, you
5 know, he send me letters of rejections and told me that these
6 people had been hired for the 2004/2005 and they are highly
7 qualified teachers. So I ask him if I am highly qualified,
8 and he said I am highly qualified according to PDE. So I
9 said, well, where did I go wrong. I wanted to see my
10 interview analysis, and he says he's not allowed to show them
11 to me. So he suggested for me to go to PDE web site and look
12 for the evaluation form. I'm not exactly sure what was
13 for -- for something. Anyway, he told me if I have any
14 questions, come back and talk to him. That's it.

15 Q. At any time did he encourage you to contact Suzanne
16 Good?

17 A. No. He said if I have any questions, contact him.

18 Q. Contact him?

19 A. Yes.

20 Q. You mean Mr. Heller?

21 A. Yes.

22 Q. Now, Suzanne Good was there.

23 A. Yes.

24 Q. Did she make any offers or suggestions to make you a
25 more viable candidate?

1 A. No.

2 Q. She never said you can call me later and we can work
3 on something together?

4 A. No.

5 Q. Did she reference that PDE web site?

6 A. I'm sorry?

7 Q. Did Ms. Good reference the PDE web site?

8 A. I am not sure who suggested to search the site, if
9 Mr. Heller or Ms. Good.

10 Q. But one of them?

11 A. Yes.

12 Q. At any time were you ever encouraged to attempt to
13 work in an after-school program the District runs?

14 A. No.

15 Q. And you were never encouraged to teach in the STARS
16 program in particular?

17 A. No.

18 Q. By anyone?

19 A. No.

20 Q. If someone says the PDE curriculum standards, would
21 you know what they meant?

22 A. Of course.

23 Q. Well, I'm just trying to make sure I use the best
24 term. Is there a more proper term than the one I just used?

25 A. No.

1 Q. I mean, I have something in mind that I want to ask
2 you questions about, and I'm just wondering what the best way
3 to identify that is. You know what I mean when I say that?

4 A. Yes.

5 Q. Just to check, what do you --

6 A. It's posted in every room.

7 Q. Pardon me?

8 A. It's posted in every room -- classroom.

9 Q. For each subject?

10 A. For language arts and mathematics.

11 Q. Were those part of your education at Edinboro?

12 A. Yes.

13 Q. Do you remember if you had a specific course on it?

14 A. No, I don't.

15 Q. Do you recall whether the standards, as you were
16 taught them in your degree program that ended in 2000 -- do
17 you recall whether those were the same as the ones that are
18 in place now?

19 A. I don't know.

20 Q. You were interviewed by this District twice, right?

21 A. That's correct.

22 Q. We've talked about the one in November or December
23 of '02, right?

24 A. That's correct.

25 Q. The other one would be when?

1 A. For 2004/2005.

2 Q. The interviews that were conducted for that school
3 year?

4 A. That's correct.

5 Q. Did they occur in the spring of '04?

6 A. February, I think, of 2004.

7 Q. Is when you think you were interviewed?

8 A. Yes.

9 Q. Do you recall the interview?

10 A. Yes.

11 Q. Do you recall who interviewed you?

12 A. Mr. Heller was there, the principals, Suzanne Good.

13 Q. Do you recall whether there were about six or --

14 A. There's two groups I know. The first group was with
15 Mr. Heller and some principals, and the second -- second
16 group was with Ms. Good and principals.

17 Q. About eight people total?

18 A. I can't really tell you.

19 Q. Fair enough. At the time you were interviewed --
20 each of those times, what was your sense of how you'd been
21 treated during the interview? Did you think those interviews
22 were unfair in any way?

23 A. During the interview?

24 Q. Well, during and maybe immediately after the
25 interview. Did you have any sense of I have just been

1 treated unfairly, or did you have a sense of seemed like a
2 fair interview or -- did you have any assessment of that?

3 A. I thought I did very well.

4 Q. And that's a comment about how you thought you did
5 during the interview.

6 A. That's correct.

7 Q. My question, though, is actually focussed on how the
8 interview was conducted by the people who were actually
9 running the interview. Did you have any reaction in terms of
10 whether it had been a fair or unfair interview of you?

11 A. I don't remember.

12 Q. Either time?

13 A. No. I don't remember.

14 Q. Did anyone say anything to you during either of the
15 interviews that you thought was inappropriate?

16 A. I'm not sure.

17 Q. From the time that you graduated through the current
18 date, have you taken any additional classes? Act 48 or
19 college classes or --

20 A. Act 48.

21 Q. How many Act 48?

22 A. I have 30 right now, and I'm still working on it.

23 Q. I imagine those are from multiple providers, or were
24 they all here at the District?

25 A. PDE.

1 Q. PDE?

2 A. Yes.

3 Q. Are they actually put on by the PDE or sponsored by
4 PDE?

5 A. I think sponsored by PDE. It's called OPEN.

6 Q. Pardon me?

7 A. OPEN, Online Professional Education Network.

8 Q. So it was all online?

9 A. Yes. I got it through PDE.

10 Q. What about other types of education since you
11 graduated, any formal college classes, online or otherwise?

12 A. No.

13 Q. Have any of these -- did you say 30 or 31?

14 A. 30.

15 Q. Did any of those credits deal with Pennsylvania
16 standards?

17 A. Yes.

18 Q. Do you recall how many?

19 A. No.

20 Q. Have you done anything else -- and this is an
21 open-ended question. Have you done anything else in terms of
22 reading magazines, going to seminars, anything -- have you
23 done anything else in terms of sort of bolstering or
24 maintaining your education since you graduated beyond what
25 you've already told me about?

1 A. Well, I could recall right now is just PDE web site,
2 and I can't recall the name of the book that I just
3 purchased.

4 Q. When did you --

5 A. Books and magazines. I just can't recall their --
6 the title of the books right now.

7 Q. Or the magazines?

8 A. Yeah. Yeah. Instructor Magazine.

9 Q. Instructor Magazine, that's the name of a magazine?

10 A. Yes.

11 Q. And you've read that?

12 A. Yes.

13 Q. How frequently?

14 A. Not very frequent. Whenever I had a chance.

15 Q. You said you just purchased a book.

16 A. Yeah.

17 Q. But you can't recall the title?

18 A. No. I can't right now, I'm sorry.

19 Q. That's all right. Have you had a chance to start
20 that yet?

21 A. Yes.

22 Q. What's the nature of that book?

23 A. I'm sorry, I just can't recall.

24 Q. It's okay.

25 A. It's for beginning teachers.

1 Q. Where'd you get that book?

2 A. The bookstore here in Meadville.

3 Q. I think you've already told me that nobody
4 encouraged you to meet with Suzanne Good, right?

5 A. No.

6 Q. Regardless of whether anybody encouraged you or not,
7 did you ever actually meet with Suzanne Good, other than that
8 one time in '04 where Mr. Heller was also there?

9 A. No.

10 Q. From August '01 through the current date do you know
11 if anyone -- anyone else who is Filipino-born or Asian, or
12 both -- do you know if anyone else has applied for long-term
13 sub positions or regular positions with the District?

14 A. I don't know.

15 Q. Have you applied anywhere else?

16 A. No.

17 Q. Why not?

18 A. I just chose not to.

19 Q. Do you know whether anyone who is neither
20 Filipino-born nor Asian and who also has not filed a PHRC
21 charge -- do you know any people like that who have subbed as
22 long as you have?

23 A. I don't know.

24 Q. There may be or maybe there aren't, you're not sure?

25 A. I said I don't know.

1 Q. Did anyone employed by the District ever make any
2 inappropriate remarks to you at any time? Beyond anything
3 you've already told us about.

4 A. Inappropriate remarks?

5 Q. Yes.

6 A. I don't know.

7 Q. Well, to be specific, since you kind of hesitated
8 there, has any employee of the District -- since August of
9 '01 through today, has any employee of the District ever said
10 anything that suggested a bias against Filipino-born people,
11 Asian people, or people who had filed PHRC charges?

12 A. George Wright.

13 Q. Through your husband?

14 A. Yes.

15 Q. That is the kind of remark I'm asking about. Anyone
16 else say things like that?

17 A. Not directly to me or -- I don't know.

18 Q. Is this the first lawsuit that you've filed against
19 an employer?

20 A. Yes.

21 Q. I just have a few more -- very few more, actually,
22 and then I want to meet with my client for a second. And you
23 may not know the answers to these, but I just want to check.
24 Do you know how many Filipino-born or Asian people are
25 certificated to teach elementary school in Pennsylvania?

1 A. I don't know.

2 Q. Do you know how many Filipino-born or Asian people
3 are members of the PSEA or any other association of educating
4 professionals?

5 A. I don't know.

6 MR. KUJAR: If we could break for a minute so I
7 could talk to my client.

8 MR. NICHOLS: Okay.

9 (Pause in the proceedings.)

10 Q. We've taken a break here, so I just wondered whether
11 you had any corrections or whether you wanted to supplement
12 any of your answers? Otherwise, I'm done.

13 A. No. I'm fine.

14 MR. KUJAR: Okay.

15

16 CROSS-EXAMINATION

17 BY MR. MCEWEN:

18

19 Q. I have a few questions. As Mr. Kuhar indicated at
20 the beginning, I'm Richard McEwen, the attorney for the
21 Crawford Education Association. Certainly I would ask that
22 the same instructions that Mr. Kuhar gave apply here. If the
23 question is unclear to you, you don't understand it, please
24 let me know, and I'll try to restate the question.

25 Just to go back over a few things. At the beginning

1 of your testimony you had indicated that you were born in the
2 Philippines. Just a couple follow-up questions on that. Is
3 your mother Filipino?

4 A. Yes.

5 Q. And your father?

6 A. Yes.

7 Q. Now, one of the issues as I understand it revolves
8 around your assignment to replace Ms. Pickens when she went
9 on some kind of medical leave. And is my understanding
10 correct that, as it turned out, you began working for her on
11 November 15th of '02 and that ended December 20th of '02?

12 A. Something like that, yes.

13 Q. Part of the basis of your Complaint is that you
14 believed at the time you began working for her you would be
15 permitted to work through the rest of the school year or the
16 rest of the semester?

17 A. The school year. Because she wasn't sure yet when
18 she's going to get her hips done.

19 Q. The assignment that you had filling in for
20 Ms. Pickens, was that the longest substitute assignment
21 filling in for one teacher that you've had since you've been
22 employed at Crawford Central School District?

23 A. Yes.

24 Q. When did you first become aware that the teachers at
25 Crawford Central had a union?

1 A. I guess when I became a member.

2 Q. When did you first become a member?

3 A. I can't really tell you. I'm not sure if it's in
4 2001 -- before that, when I did my student teaching, I was a
5 member of the PSEA and the NEA.

6 Q. Was that as a student member?

7 A. Yes.

8 Q. After you graduated, no longer a student, and began
9 substituting -- did you ever substitute anywhere other than
10 Crawford Central?

11 A. No.

12 Q. So once you began substituting at Crawford
13 Central -- that would have been the fall of 2001; is that
14 correct?

15 A. That's correct.

16 Q. Do you recall at what point in time after that you
17 joined the Union?

18 A. No. I can't recall.

19 Q. As a substitute teacher, you didn't have any Union
20 dues deducted from your pay, did you?

21 A. No.

22 Q. Do you recall the first time you paid any dues to
23 the Union?

24 A. I'm sorry?

25 Q. Do you recall the first time you paid any dues to

1 the Union after you began working here?

2 A. No, I don't.

3 Q. But at some point during your employment you paid
4 dues to join the Union; is that right?

5 A. That's correct.

6 Q. Do you recall whether you made your payment to the
7 PSEA or the Crawford Education Association?

8 A. Crawford Central Education.

9 Q. Now, since you first began working -- let me start
10 over. You first began working with the Crawford Central
11 School District in August of 2001; is that correct?

12 A. That's correct.

13 Q. Have you continued to work on a substitute basis
14 from that time forward?

15 A. Yes.

16 Q. Has all of the service that you've actually
17 performed been on an as-needed basis?

18 A. Could you repeat the question again.

19 Q. Has all the service that you've performed for the
20 District been on an as-needed basis?

21 A. Yes.

22 MR. NICHOLS: What do you mean by "as-needed"?

23 Q. To the extent that you would only work if the
24 District contacted you and needed you to work --

25 MR. NICHOLS: That's your definition --

1 Q. -- for a particular assignment?

2 MR. NICHOLS: That's your definition of --

3 MR. MCEWEN: Yes.

4 MR. NICHOLS: Well, she worked as a substitute.

5 That's clear for the record.

6 MR. MCEWEN: I'm not asking you the questions; I'm
7 asking her the question.

8 MR. NICHOLS: Wait just a moment, though.

9 MR. MCEWEN: I would appreciate if you would allow
10 your client --

11 MR. NICHOLS: I'm not going to allow --

12 (Proceedings interrupted by reporter.)

13 MR. NICHOLS: Go ahead, Rich.

14 MR. MCEWEN: I believe she already answered the
15 question to my satisfaction.

16 MR. NICHOLS: The need for clarification I think
17 here -- I think there's a need for clarification in
18 the question you posed.

19 MR. KUHAR: Can we ask the witness if she
20 understands the question?

21 A. Could you repeat the question, please.

22 Q. I asked if, since you began working for the District
23 in August of 2001, all your work has been done on an
24 as-needed basis? By which I mean that you only worked when
25 the District had a particular assignment for you to do?

1 MR. NICHOLS: I interjected -- my concern was that
2 you worked as a substitute. This "as-needed" is
3 something -- is an add on that Mr. McEwen has
4 added. It's something that you -- okay --
5 MR. MCEWEN: I'm trying to determine the parameters
6 of her employment.
7 MR. NICHOLS: Wait a minute. This is very
8 important. And the contract she signed defines
9 that. But on an as-needed basis I don't think
10 applies to the contract.
11 MR. MCEWEN: I'm not talking about the contract.
12 I'm talking about how she actually performed her
13 work.
14 MR. NICHOLS: I'm talking about what governed her
15 relationship.
16 MR. KUCHAR: You'll have a chance to ask her
17 questions when he's done.
18 MR. NICHOLS: I want to clarify that now, though --
19 MR. MCEWEN: No.
20 MR. NICHOLS: -- because it's an add on.
21 MR. MCEWEN: You will have an opportunity in court
22 to make your arguments, Mr. Nichols. I'm just
23 trying to ask some questions and find out some
24 facts. I understand what's in your Complaint. I
25 don't necessarily understand what your position is,

1 and that's what I'm trying to clarify. At this
2 point I'm just trying to find out what the
3 parameters of her employment are.

4 MR. NICHOLS: I'm going to advise my client to
5 this, on the question of as is --

6 MR. MCEWEN: I object. If you're going to tell her
7 how to answer the question, I object.

8 MR. NICHOLS: Wait a minute. I have a right to
9 advise my client here.

10 MR. MCEWEN: Not to tell her how to answer the
11 question.

12 MR. NICHOLS: Hold on. Based on what you asked, on
13 this question, on as-needed basis, if you
14 understand what that means, then I think you can
15 answer it. Okay. But if you don't understand "on
16 as-needed basis," then I would suggest you tell him
17 so. You don't understand what that means.

18 A. Can I ask you again to repeat the question, please.

19 Q. I believe the question was that since the time of
20 your employment with Crawford Central School District in
21 August of 2001, whether all of the work that you have
22 performed for them has been on an as-needed basis? By which
23 I mean that you will only work when the District has a
24 particular assignment -- limited assignment for you.

25 A. Yes and no. What do you mean the District has a

1 particular work for me?

2 Q. As opposed to a situation where you are -- you enter
3 into an employment relationship where you know you're going
4 to have -- you're going to be in a particular classroom,
5 teaching a particular grade, teaching particular students for
6 some particular period of time every day over some length of
7 time, no less than 90 days let's say. I guess that's what I
8 mean.

9 MR. NICHOLS: Are you asking her to -- what about
10 the Pickens' situation.

11 A. That's where I was like confused. That's why I said
12 yes and no.

13 MR. NICHOLS: How do you answer a question like
14 that?

15 MR. KUHAR: Well, is yes the Ms. Pickens part? You
16 can explain it.

17 A. Well, yes and no. Yes for the part that sub service
18 calls me whenever they need a teacher. And no, there's a
19 couple -- or three or four teachers that had asked me to work
20 for certain days and I was denied for that job. That's why
21 my answer was yes and no.

22 Q. Well, I -- I'm not asking about times when you're
23 denied. I'm asking what you actually did.

24 A. That's my answer, yes and no.

25 Q. In all of the assignments that you've actually

1 worked for the Crawford Central School District, you've been
2 paid on a daily basis, correct?

3 A. That's correct.

4 Q. Now, after your assignment filling in for
5 Ms. Pickens ended in December of 2002, did you speak to
6 anyone affiliated with the Association regarding that
7 situation?

8 A. Yes.

9 Q. When was that?

10 A. Can't recall the date. I think it's in 2003.

11 Q. Let me try to clarify. We'll work up. I understand
12 you had a meeting at some point, and I have some questions
13 for you about that, immediately or shortly after the incident
14 happened December 20th of 2002 -- let's say by January of
15 2003, did you contact anyone from the Association regarding
16 that situation?

17 A. I had talked with Ms. Merkatory (phonetic), who was
18 the union rep for Cochran Elementary.

19 Q. What was that name again? I'm sorry.

20 A. I'm sorry?

21 Q. What was that name again?

22 A. Ms. Merkatory.

23 Q. She was a teacher at Cochran Elementary?

24 A. That's correct.

25 Q. And the rep for that building?

1 A. Yes.

2 Q. What did she tell you?

3 A. She told me about the practice -- she's been a
4 teacher for 30-some years, and she told me about the
5 practice, but that's about it. I told her I was upset.

6 Q. Did you intend to complain about the practice at
7 that time?

8 A. About the practice --

9 Q. I guess, the -- let me clarify that. Did you intend
10 to complain about the District's apparent failure to follow
11 what you were told was the practice at that time?

12 A. Yes.

13 Q. How did you -- or did you communicate that to
14 Ms. Merkatory?

15 A. I just told her I was upset, and then she told me
16 about the practice. I didn't really know about the practice
17 until some people told me, and she had confirmed it.

18 Q. I guess just so I'm clear, when you say "about the
19 practice," you're referring to your understanding that there
20 was a practice that regular teachers could recommend a
21 substitute to fill in for them during the course of their
22 extended leaves?

23 A. And usually they are honored, yes.

24 Q. Did you ask Ms. Merkatory if you could file a
25 grievance?

1 A. No, I did not.

2 Q. Did you ask her if there was any way to complain to
3 the District -- about the District?

4 A. I just -- as a union rep, I just told her how I
5 felt. And if -- if you're asking me if she did anything
6 about it, I am not sure.

7 Q. Well, I'm not really asking whether she did
8 anything. I'm asking whether you asked her to do anything
9 about it.

10 A. No. I -- well, I don't know. I don't remember
11 exact -- what exact word I said, but probably because why
12 would I talk to her for.

13 Q. Well, I'm not sure. That's partly why --

14 A. I don't recall about the entire conversation. I
15 just know that I went to her and told her how upset I was.

16 Q. Now, in your testimony here today, you testified
17 that Ms. Pickens had recommended you to fill in for her
18 during her leave, correct?

19 A. Yes.

20 Q. And I believe you mentioned at least two other
21 teachers subsequent to that time who also -- your
22 understanding was that they recommended that you fill in for
23 them during their leaves as well?

24 A. That's correct.

25 Q. Are you aware of any other situations where teachers

1 recommended you to fill in for them during their leaves?

2 A. Say that again, I'm sorry.

3 Q. Are you aware of any other situations, other than
4 Ms. Pickens and the two other teachers you testified to here
5 earlier, where a teacher recommended that you be the
6 substitute teacher assigned to fill in for them while they
7 were off or on leave?

8 A. Other than I mentioned earlier?

9 Q. Right.

10 A. That's all I know of.

11 Q. I just wanted to clarify, I believe you testified
12 that Ms. Costello was one of the teachers, right?

13 A. Yes.

14 Q. And that was just during this last school year?

15 A. This school year.

16 Q. You've also mentioned Ms. Marusca.

17 A. Marusca.

18 Q. Marusca, excuse me. Do you remember when that was?

19 A. I think the first one is in 2003, and then the last
20 one was in 2004.

21 Q. To your knowledge, has any teacher ever spoken with
22 district administrators and asked that you not be selected to
23 fill in for them?

24 A. I don't know.

25 Q. The situations that you cited with Ms. Marusca and

1 Ms. Costello, did these occur after you filed your initial
2 Complaint with the PHRC?

3 A. Yes.

4 Q. Do you believe that the Association has prevented
5 you from obtaining employment with the Crawford Central
6 School District?

7 MR. NICHOLS: The Complaint speaks for itself,
8 Counsel.

9 MR. MCEWEN: No, the Complaint does not speak for
10 itself. I would like an answer to the question
11 because, frankly, the Association is very confused
12 over what exactly the allegations are, and I'd like
13 to be able to try to clarify them so we know how to
14 proceed.

15 A. I'm not sure how to answer that question.

16 Q. To your knowledge, has anyone in the Association
17 interfered with your obtaining employment with the School
18 District?

19 A. I don't know.

20 Q. What do you believe is the basis for your allegation
21 that the Association has interfered with your right to make
22 an enforced contract?

23 A. Could you rephrase that question, please.

24 Q. In your Complaint, you make an allegation that, to
25 my understanding, encompasses the Association. To the extent

1 that there's been an interference with your right to make an
2 enforced contract or enjoy the benefits of contract, and I'm
3 just asking what's the basis of -- let me try to rephrase
4 that. I guess what I'm asking you is, why do you believe
5 that the Association has interfered with your ability to
6 enter into a contract, I assume, with the School District?

7 MR. NICHOLS: Counsel, I feel it's incumbent that I
8 speak here because that particular allegation
9 against the Union my client relied upon me,
10 understandably, to place it and state it. It's
11 more in the nature of a legal relationship.
12 Something to which she should not be expected to
13 respond to. Factual matters, yes, but this is a
14 cause for a legal conclusion that you are posing to
15 which she should not be asked -- called upon to
16 respond to.

17 MR. KUHAR: He had asked why does she believe.
18 Would it be better if he said what facts make her
19 believe that or what facts make her think that? To
20 me it seemed like he was clearly asking for facts.
21 I don't mean to speak out of order.

22 MR. MCEWEN: That was certainly my intention. I'll
23 certainly rephrase the question again.

24 MR. NICHOLS: Again, the nature of the situation is
25 largely -- is legal in nature in terms of whether

1 or not -- well, you're named, the Union, and to
2 which the possible liability rests upon the Union,
3 as well as the School District, is really a
4 legal -- at this juncture.

5 Obviously she would not be in a position to
6 know -- to be responsive to you at this juncture
7 because discovery is still ongoing. And
8 particularly with the -- to the extent that we have
9 less discovery from the Union than we received from
10 the School District, I don't think she can be
11 responsive. I think to put her in the position
12 where naturally, at this juncture, you know
13 yourself she wouldn't have that information, and to
14 set her up on the record like that -- and I'm not
15 ascribing bad motives. I'm just simply at this
16 point saying, as a precautionary matter, that
17 question is improper and should not be posed to
18 her.

19 MR. MCEWEN: I'd like to note for the record this
20 is at least the second occasion today that Counsel
21 seems to be saying that they filed a Complaint
22 based on no facts whatsoever --

23 MR. NICHOLS: I didn't say that at all.

24 MR. MCEWEN: -- in the hopes that they would find
25 some facts during discovery.

1 MR. NICHOLS: I didn't say that at all. But let me
2 just tell you this: If you're going to say that,
3 then you tell it to Judge McLaughlin who has passed
4 upon it and rejected your argument and didn't
5 dismiss you. You tell that to him.

6 MR. KUHAR: I'm sure Judge McLaughlin anticipated
7 that discovery would occur following his
8 nondismissal.

9 MR. NICHOLS: Right. But you ascribing to me that
10 when I wrote this Complaint I had no basis to do
11 so. You tell Judge McLaughlin that.

12 MR. MCEWEN: Because whenever we ask your client
13 for what the factual basis is, you object and
14 you --

15 MR. NICHOLS: No. I'm saying --

16 (Proceedings interrupted by court reporter.)

17 MR. MCEWEN: I am not asking your client for any
18 legal conclusions. I understand that you have a
19 legal argument to make, and you'll have an
20 opportunity to make it I'm sure. But the whole
21 purpose -- my understanding of why we're here is to
22 discover the factual basis for the legal
23 allegations made in the Complaint, and that is what
24 I am attempting to do. We have been faced with a
25 vague and general allegation that we have somehow

1 interfered with your client's constitutional rights
2 to contract, and frankly, I have no idea what we're
3 supposed to have done. And I'm trying to find out,
4 by asking your client, how she feels the
5 Association wronged her.

6 MR. NICHOLS: Let me just say, I think I am duty
7 bound to speak now because, one, we at the stage of
8 discovery. With respect to the Union, we have very
9 little.

10 But you started off ascribing to me that when I
11 wrote this Complaint that I had no basis to do so.
12 My rejoinder to you was, okay, if that's so, why is
13 it that Judge McLaughlin has turned you down twice.
14 If it was frivolous, if I had no basis to complain,
15 why is it he said -- and you asked to be -- the
16 Union asked to be dismissed and he said, twice, no.

17 MR. KUHAR: Mr. Nichols --

18 MR. MCEWEN: We're not here to argue.

19 MR. NICHOLS: Why would you ascribe that to me,
20 though? Why would you ascribe when I wrote the
21 Complaint I had no basis to do so?

22 MR. MCEWEN: All I said earlier was that based on
23 your statements here today that is the conclusion
24 that I'm forced to reach.

25 And you might want to remember that I was not

1 previously involved in this case when those other
2 motions were heard and argued, and I'm fully aware
3 of the outcome of those, and that's why we're here
4 today. But I think all of this is beside the
5 point.

6 MR. KUHAR: May I be heard for a second.

7 MR. NICHOLS: Yes.

8 MR. KUHAR: All he wants to know is what the
9 Association did wrong. If she doesn't say in this
10 deposition what the Association did wrong, I think
11 there's a chance that she might not be able to say
12 at trial what the Association did wrong. That's
13 the Judge's call. But my point is, why won't you
14 let her say what the Association did wrong?

15 MR. NICHOLS: Because we don't yet -- we're still
16 conducting discovery. Okay. But we have enough to
17 say they -- in the Complaint -- and the Complaint
18 speaks for itself. We stand on what's in the
19 Complaint.

20 MR. MCEWEN: You know full well Federal Complaints
21 don't have to be fact complaints, and there's a
22 distinct lack of facts regarding the Association in
23 this Complaint. And if you feel that our discovery
24 responses have been inadequate, it's partly because
25 we don't know why we're in this lawsuit and what

1 the allegations are so that we can perhaps make
2 more relevant disclosures to you.

3 MR. NICHOLS: You will have an opportunity very
4 soon to do that.

5 MR. MCEWEN: And I believe we have provided
6 everything that you've asked to the best of our
7 ability and the best of our understanding of the
8 Complaint. And the purpose in deposing the
9 Plaintiff in this type of Complaint is to find out
10 the underlying factual basis of the situation. And
11 the fact that you've alleged something in your
12 Complaint -- I'm not trying to deny that, but it's
13 irrelevant. So when you say the Complaint speaks
14 for itself, that is not responsive to the question.

15 MR. NICHOLS: In part what you're asking -- I think
16 it's responsive to what you're asking. To ask her
17 now to give you a full answer beyond what is in the
18 Complaint and what you already know -- because you
19 all have the records. You have the records -- it
20 seems to me to be really overreaching, overbearing
21 at this point.

22 MR. KUHAR: Mr. Nichols, you might discover
23 something tomorrow or Ms. Wagner might discover
24 something tomorrow or next month, I think all he's
25 asking, as of right now -- this is her deposition,

1 she's sitting there, as of this moment in time,
2 what does she think that the Association has done
3 wrong so far. If you learn something next month in
4 more discovery --

5 MR. NICHOLS: Well, what I'm saying is, that's why
6 we careful how we speak now for fear that
7 interrogatories -- interrogatories and other
8 questions I've posed to the Union in the near
9 future may be totally contradictory. You see what
10 I'm saying.

11 MR. KUHAR: It goes without saying that you might
12 discover something in the future. If you want to
13 clarify that and have her say as of right now this
14 is what she knows, I bet that would be okay. But
15 he wants to know as of right now what does she --

16 MR. NICHOLS: As of right now you can tell him the
17 basis why we have named the Union.

18 MR. KUHAR: I don't mean to change your question.

19 MR. MCEWEN: I believe I started out asking, to
20 your knowledge. And by that I infer, to your
21 knowledge, as we sit here today, what you believe
22 the Union did to harm you.

23 MR. NICHOLS: Wouldn't it be better still, and if I
24 may be -- wouldn't it be better still to ask her
25 about what you say you will come to, that she --

1 when she went to your union representative -- she
2 told you that when she went to her union
3 representative -- she told you she went to her
4 union representative, certainly you will cover that,
5 Mr. Mehok, Mr. Hootman.

6 MR. MCEWEN: I'm working my way up to that.

7 MR. NICHOLS: That's why she went to them -- went
8 to the Union.

9 MR. MCEWEN: That's not at all responsive to the
10 question I asked. I fully intend to give her an
11 opportunity to discuss the meeting with Mr. Hootman
12 and Mr. Mehok, but that's not what I'm asking here.

13 Q. I asked, to the best of your knowledge, as you sit
14 here today, what has the Association done to harm you in your
15 employment with the Crawford Central School District?

16 MR. NICHOLS: If you don't know, you don't have to
17 answer. You don't know. At this time -- if you
18 don't know at this time, just say you don't know at
19 this time. You can't be responsive.

20 A. I choose not to answer it right now.

21 MR. KUHAR: Well, I represent some Defendants, too,
22 and I want to know what she means by that answer.
23 Unless you're going to inquire.

24 MR. NICHOLS: She meant what she said. That's what
25 you meant, what you said; isn't it?

1 THE WITNESS: Yes.

2 MR. MCEWEN: I would like to know that, and I'd
3 also like to put an objection on the record for the
4 Counsel's coaching of the witness to basically give
5 a nonresponsive response to the question.

6 MR. NICHOLS: You can put whatever you want on the
7 record, that's your prerogative. Don't badger the
8 witness, though. Don't continue to ask her the
9 same question. She gave you her answer, that's for
10 the record. Please don't badger her beyond that.

11 MR. KUHAR: And the answer for my benefit was, I
12 choose not to answer that question?

13 THE WITNESS: Yes.

14 Q. Why is that?

15 MR. NICHOLS: She told you.

16 MR. KUHAR: No, she didn't.

17 MR. NICHOLS: She said, I'm not going to answer it.
18 She's not going to answer it. Okay.

19 MR. KUHAR: Can we -- it's your thing, but can we
20 take a break?

21 MR. MCEWEN: Yes. I'm about ready to say we'll
22 come back when you can answer it because that's the
23 gist of the whole thing.

24 (Pause in the proceedings.)

25 Q. I just want to clarify what exactly the answer to

1 the questions were here in the last exchange. I believe that
2 I asked you, to your knowledge, what has the Association done
3 to prevent you from obtaining employment with the School
4 District, and if I understood you correctly, your answer was
5 that you did not want to answer that question; is that --

6 A. Well, first of all, I paid my \$40 dues to the Union
7 hoping that I'm protected for -- for what, I'm not sure. I
8 mean, I went to Ms. Merkatory and told her about my -- about
9 me being upset, and talked to Mr. Mehok and Mr. Hootman, and
10 still didn't get any help from the Union. I mean, what do I
11 get for my \$40 membership? Just an ID card and magazine? I
12 mean, that's all -- if you're asking me about the facts and
13 the documents, I just can't answer that right now.

14 Q. Well, I'm not necessarily asking about any facts or
15 documents, other than what you can recall.

16 A. That's all I can say right now.

17 Q. What did you expect that the Union would be able to
18 do for you in your situation?

19 A. I'm not sure.

20 Q. So if I understand your answer correctly, your
21 dissatisfaction with the Association's behavior in this
22 matter is based upon the fact that you went to the building
23 representative, Ms. Merkatory, and you went to -- and some
24 time later on you went to Mr. Hootman, the president, and Mr.
25 Mehok, one of the officers, and you didn't see any tangible

1 result from those discussions?

2 A. That's correct.

3 Q. I've shown you what I have marked as Exhibit A1.
4 And it's my understanding that this is a letter that you
5 provided to Mr. Dan Hootman, who's the president of Crawford
6 Education Association. Does this appear to be a true and
7 correct copy of the letter?

8 (Wagner Deposition Exhibit A1 marked for
9 identification.)

10 A. Yes.

11 Q. What was your purpose in writing this letter to
12 Mr. Hootman?

13 A. Before I wrote this letter, I had called PSEA --
14 there's a number on the back of my membership card to reach
15 PSEA. So I called them and wanted to let (sic) them know
16 what they could do for me because of this PHRC case. They
17 told me to contact the Uniserve rep. I -- I'm not sure
18 what's his name. And I spoke to the guy, the Uniserve rep,
19 and he told me to contact Mr. Hootman because he's the
20 president of the Union. So I called Mr. Hootman, and didn't
21 reach him. I left a message, and he called me back. He
22 told -- I told him about my concerns and about the PHRC case,
23 and I told him I wanted to meet with him to see what the
24 Union could do for me.

25 So he said he wanted it all in writing. So call him

1 back when I wrote it down on a piece of paper and he'll set a
2 meeting. So I did that, and that same day I typed it all up
3 and I called him back and said, I got the letter wrote. And
4 I said, I really need to talk to you this afternoon. So he
5 was nice enough to accommodate that.

6 So I went there right after school, at the Meadville
7 High School, and he said he wanted Mr. Mehok to be there when
8 he speak to me. So they read the letter, and I asked them
9 what the Union could do for me. And he said, well, he
10 doesn't really know. That's about the conversation that I
11 could recall took place.

12 Q. From what you just said there, the fact that the
13 date on the letter is September 7, 2004, does that indicate,
14 then, that's also the date you met with Mr. Hootman and
15 Mr. Mehok?

16 A. That's correct.

17 Q. Now, you stated that someone at the meeting told you
18 that they didn't know what the Union could do for you. Do
19 you recall whether that was Mr. Hootman or Mr. --

20 A. I'm not sure.

21 Q. Did either Mr. Hootman or Mr. Mehok, at the meeting,
22 indicate that they would take any further steps to try to get
23 an answer for you?

24 A. Yes.

25 Q. Do you recall what they told you to do or what they

1 told you they would do?

2 A. They said they would contact a lawyer.

3 Q. Do you know whether they did that?

4 A. I don't know.

5 Q. Did you have any further conversations with either
6 Mr. Hootman or Mr. Mehok before you filed the Complaint in
7 Federal Court in this case?

8 A. That's the only one.

9 Q. At the time of your meeting, did you indicate that
10 you were contemplating filing a Federal lawsuit regarding --

11 A. Say that again.

12 Q. At the time of your meeting on September 7th, did
13 you indicate to Mr. Hootman or Mr. Mehok that you were
14 contemplating filing a Federal lawsuit?

15 A. I'm not sure if I had told him that.

16 Q. Do you recall whether, either on September 7th or
17 any time between September 7th and when the Complaint was
18 actually filed, that you notified Mr. Hootman, Mr. Mehok, or
19 anyone from the Association that you were considering
20 including the Association in any lawsuit that you planned to
21 file regarding your employment at Crawford Central?

22 A. No.

23 Q. You presented the letter that I just showed you to
24 Mr. Hootman and Mr. Mehok at that meeting; is that correct?

25 A. That's correct.

1 Q. Did you present any other letters to them at that
2 time?

3 A. I've been sending Mr. Hootman letter of interest --
4 my letters of interest.

5 Q. Prior to that time --

6 A. No. Not prior to that time.

7 Q. Since that time?

8 A. Since that time.

9 Q. After Mr. Hootman and Mr. Mehok reviewed your
10 letter, did they give you any indication whether or not they
11 had been aware of any of the circumstances that you described
12 prior to your meeting?

13 A. I'm not sure who said it, but one of them said that
14 there's an incident that it happened to another substitute a
15 long time ago. I'm not sure who said it.

16 Q. Did they give you any further information about
17 that?

18 A. No.

19 Q. Did they tell you anything about specifically what
20 that incident dealt with?

21 A. No.

22 Q. Do you recall whether they asked you anything about
23 your membership status at the meeting?

24 A. Yeah. At first he couldn't find my form. He said I
25 wasn't a member. Mr. Mehok -- I'm talking about Mr. Mehok.

1 He said I wasn't a member. I said, you cashed my check. He
2 said, well, why don't you fill out another form. So I did
3 that, and I gave him another check for 40 bucks. That's --

4 Q. But your recollection was that you had already
5 filled out paperwork and paid to join the Association prior
6 to that time?

7 A. That's correct.

8 Q. Was it in the prior school year?

9 A. I believe so.

10 Q. Did Mr. Hootman and Mr. Mehok mention anything about
11 the fact that your status as a day-to-day substitute might
12 impact the Association's ability to do anything for you?

13 A. No.

14 Q. Did either Mr. Hootman or Mr. Mehok indicate to you
15 that the Crawford Education Association was unable to force
16 the District to hire any particular person?

17 A. No.

18 Q. At that point, September 7th, had the 2004/2005
19 school year started?

20 A. I believe so.

21 Q. Had you been employed at all as a substitute during
22 that year prior to the meeting?

23 A. Yes.

24 Q. Do you recall how many days prior to that that you
25 were employed?

1 A. No, I don't.

2 Q. Had you been employed every day from the beginning
3 of the 2004 school year up until the time that you met with
4 Mr. Hootman?

5 A. I don't know.

6 Q. You hadn't worked 90 consecutive days prior to your
7 meeting with Mr. Hootman and Mr. Mehok --

8 A. Could you repeat that again, please.

9 Q. You had not worked 90 consecutive days for the
10 School District prior to your September 7, 2004 meeting with
11 Mr. Hootman and Mr. Mehok, had you?

12 A. No.

13 Q. During your employment had you ever received a copy
14 of the collective bargaining agreement between the District
15 and the Crawford Education Association?

16 A. No.

17 Q. Was there a reason that you waited until September
18 of '04 to ask for a meeting with Mr. Hootman, or anyone from
19 the Association, as opposed to asking for the meeting at some
20 earlier time?

21 A. I'm not sure. Probably because of -- I got the
22 letter of the right to sue from PHRC.

23 Q. When did you first file your Complaint with the
24 PHRC? Do you remember?

25 A. 2003. I'm not sure about what -- what month.

1 Q. I'm not either. My recollection, it was February of
2 2003. Does that sound right?

3 A. Something like that.

4 Q. Now, prior to filing your Complaint with the PHRC,
5 did you ask the Association for any assistance with that?

6 A. Could you repeat that question again, please.

7 Q. Let me try to make it a little clearer. Did you ask
8 the Association for any assistance in filing a Complaint with
9 the PHRC?

10 A. No, I did not.

11 Q. Did you do anything to notify the Association that
12 you had filed a Complaint with the PHRC at the time you filed
13 it early in 2003?

14 A. No.

15 Q. One of the allegations in the Complaint is that you
16 were denied the opportunity to become a full-fledged member
17 of the CCEA, and my question is merely, what does
18 "full-fledged member" mean to you? What did you mean by
19 that? If you know.

20 A. I don't know.

21 Q. When you filed your Complaint with the PHRC, you
22 didn't name the Crawford Education Association as one of the
23 people you were complaining against at that time, correct?

24 A. That's correct.

25 Q. It's my understanding that when you join PSEA as a

1 substitute member, which I believe is what you did, that you
2 can ask for your status to be considered one of two ways,
3 either as a member of the local association and the district
4 where you're working or as a member at large. Do you
5 remember, did you make a decision at the time you applied to
6 join PSEA which category you preferred to be considered?

7 A. I'm not sure.

8 MR. MCEWEN: If I could just take a brief break
9 with my co-counsel.

10 (Pause in the proceedings.)

11 Q. I have one other area I want to ask about. This
12 again involves an allegation of the Complaint, and I'm not
13 asking to try to trip you up on any kind of legal grounds.
14 Frankly this is another area that the Association is very
15 confused about what exactly we're being accused of here. In
16 Paragraph 35 of the Complaint it states that the Defendants,
17 plural, and in other filings with the court your counsel has
18 indicated that we're included in that, approved of,
19 acquiesced in a long-standing custom, policy, or tradition of
20 denying Plaintiff, that's you, and minorities equal
21 employment opportunities and engaged in unlawful employment
22 practices that exclude minority group members. I guess I
23 first, at least, just want to focus on the beginning of that.
24 Is your understanding that the Association approved of some
25 policy that denies equal employment opportunities?

1 MR. NICHOLS: Counsel, are you asking a legal
2 question?

3 MR. MCEWEN: No. I asked, is it her understanding
4 that the Association approved -- I'm trying to
5 narrow down --

6 MR. NICHOLS: Approved what?

7 MR. MCEWEN: Approved of policies or customs that
8 intended to deny minorities of equal employment
9 opportunities.

10 MR. NICHOLS: That's a legal -- in the cover of a
11 legal conclusion, doesn't it?

12 MR. MCEWEN: Well, as I tried to explain, this
13 question is so broad I don't know what we're being
14 accused of. Are we being accused of approving of
15 these policies, are we being accused of acquiescing
16 in these policy, are we being accused of both, or
17 are we being accused of nothing. I don't really
18 know.

19 MR. NICHOLS: What I'm saying --

20 MR. MCEWEN: I'm trying to narrow down her
21 understanding of it.

22 MR. NICHOLS: It's unfair to beat her over the head
23 when this same thing has been before Judge
24 McLaughlin twice. And he understood enough not to
25 dismiss the Union. Now you come in and beat her

1 over the head repeatedly. I don't understand it,
2 what does this mean. Judge McLaughlin understood,
3 otherwise he would have dismissed this a long time
4 ago. Don't continue to beat her over the head
5 when, obviously, you put her in a position -- she
6 wouldn't be able to respond to that question, and
7 shouldn't be.

8 MR. MCEWEN: Why not?

9 MR. NICHOLS: For the reason I just stated for the
10 record. Judge McLaughlin has already answered
11 that.

12 MR. MCEWEN: He hasn't answered a thing. He ruled
13 on a motion. He denied a motion, that's all.

14 MR. NICHOLS: So by doing that twice --

15 MR. MCEWEN: He denied a motion that we're allowed
16 to renew at the end of discovery --

17 MR. NICHOLS: Right.

18 MR. MCEWEN: So we need to determine --

19 MR. NICHOLS: Don't beat her over the head. Judge
20 McLaughlin said you stay in.

21 MR. MCEWEN: I'm the only person getting beat over
22 the head here. I'm asking a simple question of
23 what her understanding is. I told her I'm not
24 trying to ask for a legal conclusion. I'm asking
25 what her understanding is.

1 MR. NICHOLS: You don't have to respond to that.

2 Q. I'll restate the question. Do you know of any
3 policies that the Association has endorsed and approved that
4 deny minorities equal employment opportunities in the
5 Crawford Central School District?

6 A. I don't know.

7 Q. Do you believe that the Association has acquiesced
8 in any existing customs or policies or traditions that deny
9 minorities equal employment opportunities in the Crawford
10 Central School District?

11 A. I don't know.

12 MR. MCEWEN: I'll end here, but we reserve the
13 right to re-call this witness, and we also reserve
14 the right to ask -- I'd like to note an objection
15 on the record that I believe that the witness
16 has -- ever since the break earlier in today's
17 deposition, the witness' number of I-don't-know
18 type answers has markedly increased, and I object
19 to the conduct of the Plaintiff and her
20 representatives in this deposition, and I reserve
21 the right to take this to the Judge.

22
23
24
25

CROSS-EXAMINATION

BY MR. NICHOLS:

Q. A few questions, Ms. Wagner. When you talked with Mr. LaScola in 2001 at the time when you commenced your employment with the School District -- I believe you testified that Mr. LaScola advised you as to how you could become a long-term -- obtain a full -- permanent teaching position with the District --

A. That's correct.

Q. -- is that correct?

A. Yes.

Q. In the course of that discussion with him, did he advise you concerning obtaining additional degrees or post graduate work?

A. You mean like Master's?

Q. Yeah. Like a Master's or Ph.D. or whatever.

A. He said it's not in the best of my interests to get a Master's because it's more likely that I won't get a job in the District because of, if I get a Master's, they have to pay me more.

Q. In 2004, Mr. -- Mr. Kuhar asked you this morning -- in the course of his questions he asked you whether you looked outside the District for employment as a teacher. I believe you told him, no. In 2004, though, you did meet with

1 Mr. Heller, did you not?

2 A. Yes.

3 Q. During the course of your meeting with Mr. Heller,
4 did Mr. Heller also instruct you to go outside the District
5 to look for a job?

6 A. That's correct.

7 Q. And on that particular occasion, that meeting, 2004,
8 with Mr. Heller, I believe that you referred -- that that
9 was -- that Mr. -- as I understand it correctly, Mr. Heller
10 advised you how you could become a more viable candidate for
11 a teacher position; is that correct?

12 A. That's correct.

13 Q. What, specifically, was the nature of the advice
14 Mr. Heller gave you?

15 A. He told me to check PDE web site for evaluation
16 forms for teachers.

17 Q. That was the extent of the advice that he gave you?

18 A. That's correct.

19 Q. And that was the only occasion which he gave you
20 that type of advice?

21 A. That's correct.

22 Q. Since your interview in 2004 for a teaching
23 position -- have you had an interview with the District since
24 that time?

25 A. No.

1 Q. No interview whatsoever?

2 A. No.

3 Q. Any written invitation to be interviewed?

4 A. No.

5 Q. Any written or verbal discussion from any member of
6 the administration inviting you to come in to discuss your
7 interest in becoming a teacher or what you could do in terms
8 of trying to obtain a teaching position?

9 A. No.

10 Q. You met with Mr. Hootman, Mr. Mehok, both of whom
11 were Union officials, September 7th of 2004, I believe, and
12 you said that since that time you have sent them a letter of
13 interest. What does that consist of? The letter of
14 interest.

15 A. Just my interest of obtaining a job in the District.
16 There is like postings, and then I sent letters of interest
17 to Mr. Heller, and then I made copies for Mr. Hootman.

18 Q. Each time you sent a letter to Mr. Heller indicating
19 your -- that you wish to be considered for a teaching
20 position you also sent a copy --

21 A. That's correct.

22 Q. -- to Hootman and Mr. Mehok?

23 A. Just Mr. Hootman.

24 Q. And that has been true since your meeting with
25 them -- and I'm saying "them" I'm referring to Mr. Hootman,

1 Mr. Mehok -- September 2004?

2 A. That's correct.

3 Q. And you went to Ms. Merkatory -- you first went to
4 Ms. Merkatory -- and you said that she was a union
5 representative at the time you went to her?

6 A. Of Cochran Elementary, that's correct.

7 Q. Just for the record again state the nature of your
8 discussions with her.

9 A. After my dismissal from Ms. Pickens' job, I went to
10 Ms. Merkatory and told her I was very upset of what the
11 District did to me, and she had told me to -- about the
12 practice of hiring long-term substitute teachers, that
13 teachers request for them and they honor the request.

14 Q. What was her reaction, if any?

15 A. I'm sorry?

16 Q. What was her reaction, if any, to what you -- to
17 what you stated?

18 A. Well, she was -- she was surprised that the District
19 dismissed me.

20 Q. Did she say anything she would do for you?

21 A. She didn't really say anything that -- what she
22 could do for me. I don't remember of her promising me
23 anything. I told her that I was very upset, and I don't
24 remember --

25 Q. You knew she was a member -- a union representative

1 at that time?

2 A. That's correct.

3 MR. NICHOLS: All right. Okay. I don't have any
4 further questions.

5 MR. MCEWEN: I just have a couple other briefly.

6

7

RECROSS-EXAMINATION

8 BY MR. MCEWEN:

9

10 Q. Now, in terms of the letters of interest that you've
11 sent to Mr. Hootman since your meeting in September 2004 -- I
12 believe you said this, but I just want to be clear on this --
13 those are copies of letters that are directed to Mr. Heller
14 and the administration, right?

15 A. That's correct.

16 Q. One more question on Exhibit A1, the letter that you
17 wrote. Is the letter an accurate representation of your view
18 of the events that occurred -- of what happened to you?

19 A. The important events I would say, yes.

20 MR. MCEWEN: Thank you.

21 MR. KUCHAR: I have no further questions. Thank
22 you, Ms. Wagner.

23

24 (Deposition concluded at 1:14 p.m.)

25

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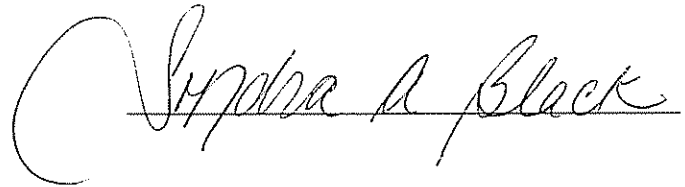
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C E R T I F I C A T I O N

I, Sondra A. Black, a Court Reporter and Notary
Public in and for the Commonwealth of Pennsylvania, do
hereby certify that the foregoing is a true and accurate
transcript of my stenographic notes in the
above-captioned matter.



Dated: November 14, 2005

Notarial Seal
Sondra A. Black, Notary Public
Waterford Twp., Erie Co.
Commission Expires Aug
2007
Erie County Association of Notaries